LEGISLATIVE RESEARCH COMMISSION

CHILD ABUSE TESTIMONY AND CHILD PROTECTION

REPORT TO THE 1987 GENERAL ASSEMBLY OF NORTH CAROLINA

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STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

December 12, 1986

TO THE MEMBERS OF THE 1987 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1987 General Assembly on child abuse testimony and child protection. This report is made pursuant to Chapter 790 of the 1985 General Assembly (1985 Session).

This report was prepared by the Legislative Research Commission's Child Abuse Testimony and Child Protection Committee and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey

J. J. (Monk) Harrington

Cochairmen Legislative Research Commission

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

1985 - 1987

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PREFACE

The North Carolina Legislative Research Commission is an interim study organization of the General Assembly. The Commission is established and governed by the North Carolina General Statutes 120-30.10 through 120-30.18. The Commission is cochaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Cochairmen appoint five members from their respective houses. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner." (G.S. 120-30.17(1)).

At the direction of legislation enacted by the 1985 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of studies. The Cochairmen of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and of the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The Child Abuse Testimony and Child Protection Study was authorized by Section 1 (23) and (39) of Chapter 790 of the 1985 Session Laws (1985 Session). (A copy of the pertinent parts of Chapter 790 may be found in Appendix A of this report.) That act made reference to Senate Bills 165 and 802 introduced by Senator Hipps and House Bill 332 introduced by Representative Keesee-Forrester. (A copy of Senate Bills 165 and 802 and House Bill 332 may also be found in Appendix A of this report.)

The Legislative Research Commission placed the Study on Child Abuse Video Testimony and Child Protection under the Children Area for which Senator Lura Tally is responsible. The Committee on the Child Abuse Testimony abd Child Protection is cochaired by Senator Charles Hipps and Representative Daniel DeVane. The membership list of the Committee may be found in Appendix B of this report.

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COMMITTEE PROCEEDINGS

The Child Abuse Testimony and Child Protection Study Committee met four times prior to issuing this final report: January 24, 1986; April 16, 1986; November 21, 1986; and December 5, 1986. Lists of those attending Committee meetings, as well as Committee minutes are contained in the Committee's records on file in the Legislative Library.

January 24, 1986 Meeting

The Committee held its initial meeting on January 24, 1986. The issues discussed included independent adoptions, the N. C. Center for Missing Children, and the videotaped recording or video transmission via closed circuit television of a child's testimony in child abuse trials.

The issue of independent adoptions focused on a recent change in the law by the 1985 General Assembly that allows the independent placement of a child under six months old by a parent legally entitled to custody without the written consent of either the county director of social services or of a private child-placing agency duly licensed by the Social Services Commission. Before the law was amended, written consent was necessary before a child could be placed in private placement adoption.

Mrs. Mary Taylor, Past President, Board of Directors of The Children's Home Society of North Carolina, Inc., addressed the Committee on behalf of all licensed adoption agencies, public or private. She expressed concern and pointed out risks and hazards of independent adoptions and stated that The Children's Home Society would like independent adoptions declared unlawful. She submitted the publication "Carolina Children" for the Committee's consideration. (Appendix C)

State Representative Robert C. Hunter, of the 49th District, told the Committee he felt that private placement adoption should not be prohibited and neither should the Department of Social Services and licensed child placing agencies have a monopoly on all children adopted. He expressed his feeling that some parents who are fine citizens are at a disadvantage beacuse of age, nationality, social and financial status and would be denied the opportunity to adopt a child if private placement adoptions were prohibited. He noted that the law applies to children under six months old and that North Carolina has a statute that prohibits buying and selling a baby. He stated that the biologiocal parents should make the choice and their consent should be an informed one. (Appendix D)

Mr. E. B. Jackson from the N. C. Center for Missing Children explained the functions of his office as a record keeping advocacy agency that acts as the go-between when local law enforcement has

a problem communicating with another state to recover a missing person. He stated that missing children's identification information is entered into a national computer network and that they are able to respond within minutes of receiving a report. Finally, he said that the Center would need increased funding because of the increasing work load.

The child abuse video testimony procedure was first proposed in Senate Bill 165 and House Bill 332, identical bills introduced by Senator Hipps and Representative Keesee-Forrester respectively.(Appendix A) The Committee examined the possible use of videotaped recordings and video transmission via closed circuit television of the testimony of a child victim or witness in child abuse cases in an effort to keep the child out of the open courtroom at trial and away from eye to eye contact with the defendant during all phases of the investigation and trial.

Ms. Michelle Rippon, of the Governor's Crime Commission, told the Committee that the Governor's Task Force on Child Victimization had held public hearings across the State at which many speakers expressed a need for videotaping a child's testimony. She stated that with additional safeguards incorporated into the bill, the constitutional rights of defendants could be protected but she knew of no United States Supreme Court cases that had ruled on the procedure. (Appendix E)

Dr. David L. Ingram, Chief of Pediatric Service with Wake Medical Center, spoke in support of videotaping the child's interview during the initial medical evaluation of an abuse case to lessen the trauma and intimidation of numerous subsequent interviews. He also favored video taping of court proceedings as well. (Appendix F)

Mr. Randolph Riley, District Attorney, Wake County, addressed the Committee and shared statistics of child abuse nationally and locally. He explained the multi-disciplinary, or team, approach used in Wake County where the social worker, law enforcement officer, medical personnel and assistant district attorney can work closely together to minimize any trauma the child may experience as a result of reporting that he or she has been molested or abused. He cautioned the Committee not to narrow its focus solely on the videotaping issue and to be careful not to enact any legislation that may adversely affect recent case law expanding the hearsay exceptions that have aided the prosecution in child abuse trials. He also asked the Committee to recommend an appropriation to the Administrative Office of Courts for the purchase of anatomically correct dolls for the District Attorneys in the State. (Appendix G)

Mr. Mike Easley, District Attorney for the 13th District, offered his assistance to the Committee in its efforts to change the judicial system to accommodate the needs of children. He

mentioned the recent N. C. Supreme Court cases that have broadened the hearsay exceptions and urged the Committee to examine how any proposed legislation will interact with the new case law. He also stated that the District Attorneys supported the decision to study the video testimony bills because the procedures were controversial and similar laws were on appeal in other states. He said the videotape approach looks like a viable option, but that the problems need to be identified before moving toward a solution. (Appendix H)

April 16, 1986 Meeting

At its second meeting, on April 16, 1986, the Committee heard testimony from Mr. Dan C. Hudgins, Director of the Durham County Social Services Department, concerning independent adoptions. He spoke in support of Mrs. Mary Taylor's comments at the Committee's first meeting and assured the Committee that as Chairman of the North Carolina Association of County Directors of Social Services, he and the Association membership had voted unanimously to include in their legislative plan a repeal of the recent changes in the adoption law that removed the requirement for the consent of the local County Department of Social Services to private placement or independent adoptions. (Appendix I)

Mr. William "Bud" Crumpler, a Wake County attorney, spoke against the proposed legislation concerning child abuse video testimony. He said that the North Carolina Academy of Trial Lawyers had serious reservations about the proposal and that he is adamantly opposed to any legislation that would allow the testimony of children in abuse cases to be admitted in court proceedings by televised or videotaped means. He said he preferred the eye to eye contact in the courtroom although he would not be opposed to other methods making the courtroom comfortable for the child such as allowing the child to sit in someone's lap while testifying. (Appendix J)

Mr. Edward W. Grannis, Jr., District Atorney for the 12th District, said that the District Attorneys had no problems with additional language in the proposed bill that will require the judge to make certain determinations. He said that the State owes it to children to try to do everthing it can to protect them.

The Committee then reviewed the proposed legislation in its amended form. Staff explained that the bill included a new provision requiring the judge to hold a hearing and to make specific findings of fact, on the record, supporting his determination when granting the prosecution's motion allowing the videotaping or video transmission of a child victim's testimony. A finding that the child is psychologically unavailable because of trauma and that the procedure is necessary would be specifically required. (Appendix K)

November 21, 1986 Meeting

At its third meeting, on November 21, 1986, the Committee received a report from Dr. Desmond Runyon, Department of Social and Administrative Medicine, University of North Carolina, Chapel Hill, on the Impact of the Court Process on Abused Children. He presented a statistical analysis that traced the progress of the children through all phases of the court and placement process and made two principal conclusions: 1) that children who must wait on the criminal court process because of court ordered continuances do psychologically worse; and, 2) that children allowed to get psychological therapy will get better. He thus urged the Committee to recommend legislation that would speed up the disposition of child abuse cases and also assist the children in receiving certified therapy. (Appendix L)

The Committee then voted to make various recommendations including amending the Speedy Trial law to limit perfunctory continuances in child abuse cases and proposing that the District Attorneys give child abuse cases priority on the trial schedule. Other recommendations were the coordination of the interview process, the biennial funding of the UNC School of Medicine Child Medical Evaluation Program, an appropriation for anatomically correct dolls, the development of a program to address the needs of the child abuse victim, and that the Committee support the

Mental Health Study Commission's ten year plan. The final recommendation was for the Legislative Research Commission to continue the Child Abuse Testimony and Child Protection Study Committee in order to continue to study the videotape legislation and other related issues.

December 5, 1986 Meeting

At the Committee's last meeting before the 1987 General Assembly, the Committee approved the text of its recommendations and proposed legislation in its final report to the 1987 General Assembly.

FINDINGS AND RECOMMENDATIONS

The Committee of Child Abuse Testimony and Child Protection makes the following findings and recommends the following actions to the Legislative Services Commission:

A. Findings

1) Many child victims of physical and sexual abuse suffer additional psychological harm from waiting an inordinate amount of time for the trial and dispensation of their case because of court ordered continuances.

2) The North Carolina Conference of District Attorneys can adopt the policy of expediting the proceedings of criminal trials involving the physical or sexual abuse of children.

3) The interview process of a child abuse victim can involve numerous and repetitive interviews conducted by various persons that subject the child to further trauma.

4) The District Attorneys need anatomically correct dolls in order to adequately interview the child sexual abuse victim and effectively present their case at trial.

5) To effectively deal with the abused child, there needs to be a coordinated program to assist in all phases of a child abuse case from prevention, through the court proceedings, to treatment and rehabilitation.

6) The Child Medical Evaluation Program at the UNC School of Medicine is an important resource tool for social services personnel and the courts and should be adequately funded on a permanent basis to serve all counties in the State.

7) The Mental Health Study Commission has developed a ten year plan that includes treatment programs that could address the needs of abused children.

8) The Study Committee on Child Abuse Testimony and Child Protection needs to continue its study of videotaped recordings and video transmission via closed circuit television of the testimony of the child victim or witness in order to interpret evolving federal and state case law in this area to ensure that the procedure would survive a constitutional challenge.

B. Recommendations

1) That legislation be enacted to amend the Speedy Trial law to require that the judge shall consider as an additional factor, in determining whether to grant a continuance, whether the case involves a witness who is under 13 years of age and who is alleged to be the victim of child abuse, and whether further delay would be injurious to such witness. (Appendix M)

2) That the North Carolina Conference of District Attorneys adopt the following policy directive at their February meeting:

Duty To Expedite Proceedings In Child Abuse Cases

In all criminal proceedings involving physical or sexual child abuse and the child victim or witness is under the age of 13 years, the District Attorney, when appropriate, shall expedite the proceedings giving them precedence over all other criminal actions in the order of trial to minimize the length of time the child must endure the stress of his or her involvement in the proceeding.

3) That in order to coordinate the interview process, administrative policies should be enacted by interagency agreements between law enforcement, medical personnel, social services, the District Attorney and others involved.

4) That funding for The Child Medical Evaluation Program at the UNC School of Medicine be placed in the base budget for funding in each biennal appropriations act, and that services be extended to non-caretaker cases by the Program.

5) That legislation be enacted to appropriate $20,000 to the Administrative Office of the Courts for the purchase of sets of anatomically correct dolls to be distributed to each prosecutorial district. (Appendix N)

6) That the problem of physical and sexual child abuse be addressed by a program developed and funded to coordinate a comprehensive strategy for the prevention, investigation, treatment and rehabilitation of the child victim.

7) That the Legislative Research Commission continue the Child Abuse Testimony and Child Protection Study. (Appendix O)

8) The Mental Health Study Commission is supported in its ten year plan and is encouraged to provide a funding mechanism for theraputic treatment and rehabilitation of child victims of physical and sexual abuse.

S.B. 636 **CHAPTER 790**

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, MAKING TECHNICAL AMENDMENTS THERETO, AND TO MAKE OTHER AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. Studies Authorized. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1985 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(23) Child Abuse Testimony Study (S.B. 165-Hipps),

(39) Child Protection (S.B. 802-Hipps),

Sec. 3. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1987 General Assembly, or the Commission may make an interim report to the 1986 Session and a final report to the 1987 General Assembly.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1985.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

S

I

SENATE BILL 165*

Short Title: Child Abuse Testimony. (Public)

Sponsors: Senators Hipps, Redman.

Referred to: Judiciary I.

April 1, 1985

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ELECTRONIC TRANSMISSION OR RECORDING OF THE TESTIMONY OF CHILDREN IN CASES OF PHYSICAL OR SEXUAL ABUSE OF CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. Article 73 of Chapter 15A of the General Statutes is amended to add a new G.S. 15A-1244 to read:

"§ 15A-1244. Electronic transmission or recording of testimony of children in cases of physical or sexual abuse of children.--

(a) Coverage of Section. This section applies to prosecutions in which the victim is a child under the age of 13 years and the defendant is charged with child abuse under G.S. 14-318.2 or G.S. 14-318.4, an offense under Article 7A of Chapter 14, crime against nature under G.S. 14-177, or incest under G.S. 14-178 or G.S. 14-179. This section also applies to any offense being jointly tried with one of these offenses.

(b) Electronic Transmission of Testimony. In a criminal prosecution covered by this section, the judge may, on the motion of either the State or the defendant, order that the testimony of the child or of any witness under the age of 13 years be taken in

a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the State and the defendant, persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be in the child's presence during his testimony. The judge must provide a method of his communicating with those in the room with the child from the courtroom. Only the attorneys and the judge may question the child. The persons operating the equipment must be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The judge must permit the defendant to observe and hear the testimony of the child in person and to communicate with his attorney at appropriate intervals concerning the testimony, but must ensure that the child cannot see or hear the defendant.

(c) Videotape Recording of Testimony. In a criminal prosecution covered by this section, the judge may, on the motion of either the State or the defendant, order that the testimony of the child or of any witness under the age of 13 years be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only the judge and those persons permitted to be present at the taking of testimony under subsection (b) of the section may be in the child's presence during the taking of the child's testimony, and the persons operating the equipment must be confined from the child's sight and hearing as provided in

subsection (b). Only the attorneys and the judge may question the child. The judge must permit the defendant to observe and hear in person, subject to the conditions under subsection (b). The judge must ensure that:

(1) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;

(2) The recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate;

(3) Each voice on the recording is identifiable; and

(4) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(d) Testimony of the Child Not Required in Courtroom. If the judge orders the testimony of a child to be taken under subsection (b) or (c) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken."

Sec. 2. This act shall become effective October 1, 1985.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

S

2

SENATE BILL 165*
Committee Substitute Adopted 7/3/85

Short Title: Child Abuse Testimony. (Public)

Sponsors Senator

Referred to: Judiciary I.

April 1, 1985

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ELECTRONIC TRANSMISSION AND RECORDING OF THE TESTIMONY OF CHILDREN IN CASES OF PHYSICAL OR SEXUAL ABUSE OF CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the electronic transmission and recording of the testimony of children in cases of physical or sexual abuse of children. The study may include, among other aspects, a detailed examination of the constitutionality of proposed procedures as well as the rules of procedure and evidence that would govern the implementation of any recommended legislation.

Sec. 2. The Commission may report its findings, together with any recommended legislation, to the 1985 Session of the General Assembly, Regular Session 1986.

Sec. 3. This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

S

I

SENATE BILL 802

Short Title: Child Protection Study. (Public)

Sponsors: Senators Hipps; Speed.

Referred to: Rules and Operations of the Senate.

June 7, 1985

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CHILD PROTECTION AND RELATED CHILDREN'S ISSUES.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the issues of child protection and related children's matters. The Legislative Research Commission may make an interim report, including recommendations, to the 1985 General Assembly, 1986 Regular Session, and may make a final report to the 1987 General Assembly.

Sec. 2. This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1985

H

I

HOUSE BILL 332*

Short Title: Child Abuse Testimony. (Public)

Sponsors: Representatives Keesee-Forrester, Cochrane; Allran,*

Referred to: Courts and Administration of Justice.

April 1, 1985

A BILL TO BE ENTITLED

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(c) Videotape Recording of Testimony. In a criminal prosecution covered by this section, the judge may, on the motion of either the State or the defendant, order that the testimony of the child or of any witness under the age of 13 years be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only the judge and those persons permitted to be present at the taking of testimony under subsection (b) of the section may be in the child's presence during the taking of the child's testimony, and the persons operating the equipment must be confined from the child's sight and hearing as provided in

subsection (b). Only the attorneys and the judge may question the child. The judge must permit the defendant to observe and hear in person, subject to the conditions under subsection (b). The judge must ensure that:

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Sec. 2. This act shall become effective October 1, 1985.

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*Additional Sponsors: Boyd, Brawley, Brown, Chalk, Colton, Craven, Hauser, Huffman, Jones, Privette, Wood.

CHILD ABUSE TESTIMONY AND CHILD PROTECTION

Auth: 1985 Session Laws, Chapter 790 § 1 (23) (39) (SB 636-Sen. Plyler, et al), HB 332 (Rep. Keesee-Forrester, et al), SB 165 (Sen. Hipps, et al), SB 802 (Sen. Hipps, et al)

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Carolina Children

The Children's Home Society of North Carolina, Inc.

Dear Friends,

This issue of "Carolina Children" is devoted to a subject that has been a major concern of The Children's Home Society for some years . . . that of independent, non-relative adoptions of infants.

For the past year, the President's Advisory Committee has made an intensive study of the hazards and risks of independent adoptions in North Carolina. This issue of "Carolina Children" gives you the results of our work.

We have found that many lawyers and doctors become involved in non-agency, independent adoptions with good intentions, but without understanding the inherent risks involved. We have found that some independent adoptions are unlawful . . . "black market" adoptions where monetary gain is the motive.

Independent adoptions of all types other than adoption by blood relatives hold risks for all parties: the biological parents, the adoptive parents and, most importantly, the child. We feel that independent adoptions of infants hold special hazards and should be unlawful with or without the use of an intermediary and regardless of whether or not money changes hands in the process.

Our concern in this situation is, of course, the protection of the children involved. Children are, many times, the innocent victims of the problems resulting from such placements. It is the children who are at risk in independent placements.

A legislative committee will be studying this issue during the coming months. It is our hope that the outcome will be legislation which will prohibit independent adoptions in this state. We feel that this issue should be of concern to all North Carolina citizens who are interested in child welfare. We will continue to keep you informed of this issue through subsequent articles in "Carolina Children".

Mary Taylor

Mary Taylor
Chairman, President's Advisory Committee
Past President, Board of Directors

Legislative Committee will Study N.C. Laws on Independent Adoptions

Senator Russell Walker of Asheboro has introduced a resolution to the legislature that the issue of independent adoptions in North Carolina be referred to a legislative study committee for in depth study.

This resolution was made as a result of work that had been done during the past year by the President's Advisory Committee of The Children's Home Society. Under the leadership of Mary Taylor, chairman, the committee has evaluated the present laws in North Carolina on independent adoptions as well as actual independent adoption practices in this state.

The committee worked closely with Bill McNair, a Charlotte attorney who has had extensive experience with adoption and related issues. McNair drafted some proposed legislation which would absolutely prohibit all independent placements of a child two years of age and under except for placement with relatives. It would make it unlawful for residents of North Carolina to adopt babies from out of state except through a licensed child placing agency. This proposed legislation will be considered by the legislative study committee during the coming months.

Current North Carolina law allows independent adoption if no money changes hands. The law is often ignored by adopting parents who pay the biological mother's transportation and medical costs. It is also ignored by "baby brokers" who may actually sell babies for a profit.

In addition, a little known statute makes it a criminal offense to separate a child under the age of six months from a parent for the purpose of placing the child in a foster home (commonly thought to include an adoptive home) without the written consent of a child placing agency, according to McNair. He finds that this law is often ignored or circumvented by falsifying the placement date on the adoption petition.

The President's Advisory Committee has discovered that in addition to being legally risky, independent adoption also carries other inherent risks. (See accompanying article, "Independent Adoptions are Risky".) The Committee expressed concern that in many independent adoptions the child's needs and rights come last - after the needs of adopting parents and biological parents are considered. In agency adoptions, safe planning for the child is the primary consideration.

Independent Adoptions Are Risky

In *Adoptions without Agencies*, a study of independent adoption published by The Child Welfare League of America, authors include numerous examples of actual incidents from across the country which illustrate the possible dangers of independent, non-relative adoptions. The cases below come from that study.

● RISK: Adoptive parents and biological parents may know one another, which can result in one set of parents interfering with the other.

In *North Carolina*: A biological mother called adoptive parents repeatedly during the first year after placement asking for "loans" of money.

In *Vermont*: A biological mother changed her mind after the court termination of her parental rights was final. She called and tried visiting the adoptive family. The adoptive family plans to move out of state to avoid further contact.

● RISK: Adoptive parents may refuse to adopt a child who is born with medical or developmental problems, leaving responsibility for the child to the biological mother who has not prepared to care for the child.

In *Wisconsin*: An unmarried mother was notified that her two year-old would be returned from another state because of failure to develop. It turned out that the "failure to develop" was due to the poor quality of the adoptive home.

In *West Virginia*: Just before an independent placement, the physician who was acting as an intermediary decided against proceeding because of suspected hereditary problems in the background. He told the biological parent of his decision and, in effect, returned the baby to her.

● RISK: Custody fights are possible in an independent adoption because parental rights of biological parents may not be properly terminated.

In *Kansas*: A mother requested that an adoption be set aside, asserting that her consent was invalid because she didn't have informed independent legal advice. The only advice she received was from the attorney for the adoptive parents. A district court upheld the rights of the biological mother.

In *Kentucky*: Biological parents were divorced. The mother, who had custody of the child, placed the infant with a couple who wished to adopt. The biological father filed a custody suit, claiming that his rights were not terminated. Since he had remarried he felt prepared to care for the child. The child was removed from the adoptive home and returned to the biological father.

● RISK: Although independent adoptions are legal in North Carolina and many other states, "for profit" adoptions or black market adoptions are not. Money may pass hands "under the table", concealing the illegal nature of an independent adoption.

In *New Jersey*: A couple who later rejected the idea of an independent placement told of fees quoted to them of $15,000 to $20,000 for a baby. One lawyer asks couples to pay an initial fee, then pay the balance after agency investigation, so that they can quote the initial portion of the fee as the total fee to the court.

● RISK: Biological parents might change their minds after the placement but before

their rights have been terminated. In *Louisiana*: A biological mother had understood that her rights were terminated at the time of placement. She found out prior to the interlocutory decree that this was not the case. The child was returned to her at her request.

● RISK: A couple not approved for adoption for legitimate reasons by a licensed social agency can receive a child independently since families adopting independently come under less scrutiny and courts seem reluctant to remove children once they are placed in the home.

In *New York*: An older professional couple wished to adopt. The man was 58. His wife was 45. The husband had previously married, then divorced after 31 years. There were no previous children. Their stated motivation for wanting a child was that the man wanted an "heir." An agency turned them down, but they adopted independently.

In *Alabama*: A couple was turned down for adoption by a licensed agency because of severe medical problems including cancer. The couple adopted independently through a doctor.

● RISK: The adoptive family may not receive critical information on the child's background that might affect either the child's health and development or the adoptive parent's willingness to rear the child.

In *Pennsylvania*: A child, who appeared to be racially mixed, was placed by an attorney. The adopting parents were not aware of the child's racial heritage. The Orphan's Court judge was told of the situation in an independent investigation report. He confronted the attorney, who then revealed this possibility to the adopting couple.

In *Oregon*: The adoptive parents were not informed that the biological mother and others in the family were severely diabetic. The adoptive parents were under the impression that the biological mother was free of health problems.

● RISK: The purpose of an adoption is to create a new, stable, permanent environment in which a child can grow and develop. Yet, in an independent adoption, the legal process may, for a variety of reasons, never be completed, leaving the child in a state of legal limbo.

In *Massachusetts*: An agency made a negative report to the court about a family who had had a child placed with them independently. The family learned of this and their attorney delayed finalization. The case has been held since 1972, possibly because the attorney feels that the longer the child is in the home, the better the chance of ultimate finalization.

In *North Carolina*: The adopting parents separated (and later divorced) before the adoption was finalized. The adoptive mother kept the child with plans to adopt as a single parent. The biological parents were recontacted for consents to the single adoption, but they refused to sign again. The child is now 7 years old, still living with the original adoptive mother, who has now remarried. The original petition is still pending, and the child is in legal limbo. It is uncertain when and how the case will be resolved.

● RISK: An unmarried mother may not know the alternatives available to her in an independent placement. Pressure may be placed on her to surrender the child and her ambivalence about this decision and other life decisions may never be explored.

In *Wyoming*: A disturbed 16-year-old unmarried mother was referred for counseling after placing her child independently. She felt she had been forced into adoption, primarily by her mother. No one had helped her understand her situation, alternatives or consequences. Her feelings had not been dealt with or resolved.

Supplies for Babies are in Short Supply

How many diapers, undershirts or gowns will thirty babies use in one day? Anyone who has ever cared for one infant can imagine what the needs of thirty infants would be. At any given time, The Children's Home Society has thirty or more babies in our care. We depend on individuals and clubs to supply us with the clothing and equipment needed for their care during the weeks or months before they are adopted. New or used donations in good condition are appreciated. Clothing should be in the smallest infant sizes. If you have infant clothes or equipment packed away, why not think of sharing it with our babies?

Listed below are the items most needed:

Show clothes
Porta-cribs
Porta-crib mattresses and sheets
Swings
Small stretch suits
Receiving blankets
Undershirts
Gowns
Rubber pants
Lap pads
Pampers
Pacifiers

Adoption in North Carolina

Licensed Agency Adoption

1. The agency serves all parties in an adoption: biological parents, adoptive parents and child, helping all parties to receive appropriate services and insuring that each party knows his rights and responsibilities. The focus is on the welfare of the child.

2. A professional social worker provides counseling to the biological parents prior to the adoption. The social worker helps biological parents deal with their feelings and informs them of their rights and responsibilities.

3. The agency evaluates an adoptive family's readiness and ability to parent a child. Adoptive parents and child are matched according to background and the child's special needs. The agency attempts to find the best possible home for each child.

4. The agency gathers detailed information on the child's background and medical history and keeps a permanent record. The agency provides counseling to all parties in an adoption in later years if requested.

5. North Carolina law requires that the agency provide confidentiality to the child, biological parents and adoptive parents. Biological parents do not know the identity of adoptive parents and vice versa.

6. The agency insures that adoption laws are strictly followed.

7. Adoption agencies are non profit.

Non-licensed Independent Adoption

1. The focus of an independent adoption is usually on the needs of the adoptive parents rather than on meeting the needs of the child.

2. Biological parents receive no counseling. Their feelings are not dealt with. Biological parents often have no one to advise them of their rights.

3. There is no guarantee that parents and child will be appropriately matched. Minimal standards are set for the quality of a family and appropriateness of the adoptive home for the child.

4. Background and medical information is not as complete and may be inaccurate. No one keeps a permanent record. Ongoing services are not available.

5. Biological parents and adoptive parents meet one another, which can lead to future uninvited intrusions by biological parents upon the adoptive family.

6. Adoption laws may not be properly followed. Some independent adoptions are never finalized.

7. Some intermediaries arrange adoptions for a profit.

The Children's Home Society of North Carolina, Inc.
P.O. Box 6587
Greensboro, North Carolina 27415
Vol. XXXVIII No. 1, Spring 1985

Address Correction Requested

North Carolina General Assembly

House of Representatives

State Legislative Building

Raleigh 27611

REP. ROBERT C. (BOB) HUNTER
43rd DISTRICT - McDOWELL AND YANCEY COUNTIES
HOME ADDRESS: P. O. Box 1330
MARION, N. C. 28752

January 20, 1986

COMMITTEES

APPROPRIATIONS EXPANSION BUDGET COMMITTEE ON GENERAL GOVERNMENT, CHAIRMAN
APPROPRIATIONS BASE BUDGET
VICE CHAIRMAN
APPROPRIATIONS EXPANSION BUDGET
VICE CHAIRMAN
COURTS AND ADMINISTRATION OF JUSTICE
VICE CHAIRMAN
JUDICIARY IV VICE CHAIRMAN
CORPORATIONS
ELECTION LAWS
HIGHER EDUCATION
PENSIONS AND RETIREMENT
RULES
TRANSPORTATION

Mrs. Robert B. Taylor, Chairman
President's Advisory Committee
The Children's Home Society
of North Carolina, Inc.
P. O. Box 6587
Greensboro, NC 27405

Dear Mrs. Taylor:

Sometime ago you wrote to me and later forwarded a copy to me of your letter to Lt. Governor Jordan regarding House Bill 783. House Bill 783 was introduced by Rep. William Clark. I did not sponsor the Bill but I did prepare an amendment which was adopted on the House floor which would exempt private placement adoptions from G.S. 14-320. The bill as amended was ratified.

I do not share your feeling that all independent adoption should be prohibited. In your letter you asked me for my reasons for amending the bill. . The particular statute G.S. 14-320 (which makes it a crime to separate a child from its mother) was first called to my attention several years ago by a local attorney who had a client threatened with prosecution under this statute in another county in which a matter was pending. After hearing his discussion, I felt that the statute was inappropriate in its application to private placement adoptions. Also, there was a question as to whether it applied to them at all. In an earlier session of the General Assembly I also opposed a Bill similar to the original version of House Bill 783.

I have also had the occasion to know personally of two very fine couples who have been able to adopt a child through an independent placement. (Both of these couples by the way talked to your organization). Both of these couples are outstanding citizens in their communities and each of the children and each set of parents have normal successful relationships. These parents might not have been able to adopt a child which means so much to them and gives the

child a good home if independent placement of children by a parent without the consent of the Department of Social Services or a licensed agency had been illegal. Many good-qualified parents are on the waiting lists of the Department of Social Services or do not meet the criteria set out by the Department of Social Services or a child placement agency as to "who are the best parents to adopt a child." Age, nationality, social and financial status can all have an impact on denying someone the right to adopt a child through the Department of Social Services and/or a licensed child placement agency.

Your institution obviously plays an important part in the adoption of children. You do a good job with the children who are placed with you. That does not mean that child placement agencies and the Department of Social Services should have a monopoly on all babies who are placed for adoption. If the biological parents want to determine who is to get their child, I certainly see nothing wrong with that as long it is an informed consent. I believe that choice should be left up to the biological parents.

I certainly do not believe that anyone should be able to sell a baby and do not want us to have black market babies. I think you are aware that we already have a statute that prohibits this (N.C.G.S. 48-37).

Before I received your letter, I did have a call from attorney William McNair who I think has done some work for the Children's Home Society. My conversation with him lasted approximately 30 minutes and I discussed with Mr. McNair the way my amendment came about and my reasons and views regarding the Bill and independent private placement adoptions. I thought perhaps he had shared those views with you. I have read the article which he forwarded to me which he prepared and also the recent article in Carolina Children. I still do not believe that private placement adoptions should be prohibited. If we do, then I think we are going to be denying a lot of our fine citizens who want to adopt a child the opportunity to ever be able to do so.

Sincerely yours,

RCH

Robert C. Hunter

RCH/w
cc: Lt. Gov. Robert B. Jordan
Speaker Liston B. Ramsey
Senator Charles W. Hipps
Rep. William Clark
Rep. Dan DeVane
Mr. Grover Burthey

Legislative Study
Commission on Child Abuse Testimony
and
Child Protection

In its March 1985 report to the Governor on missing children, the Governor's Crime Commission recommended that the General Assembly enact legislation to allow for the electronic transmission or recording of child victim testimony.

I began work at the Crime Commission after the publication of the report. My initial reaction to the bill, as drafted, was that it was probably constitutional. However, I had just spent 3 years as a research assistant and later Director of Research at the North Carolina Supreme Court, and I felt that the safeguard of a pre-trial hearing to determine unavailability of the witness and necessity for the procedure would ensure that the bill would pass constitutional screening and thereby avoid the costly and devastating effects of new trials on the victims. I wrote a memo to that effect which I sent to Senator Hipps and Representative Keesee-Forrester. It is our hope that the bill will be amended to include a hearing requirement and that you will recommend its speedy enactment into law.

I believe it is important to remember that this legislation does not require that the testimony of a child in a sex abuse case be videotaped or otherwise electronically transmitted. It merely offers an option - an important option to our courts, to be used where it is determined that the child is emotionally unable to withstand the trauma of the courtroom environment. In such circumstances, I believe it is the consensus of opinion, that the need for the procedure outweighs whatever slight intrusion there may be for the offender to maintain "eye to eye" contact with

the victim. This is particularly true in cases where the child is the sole source for identification of the offender as the perpetrator. Recall that the bill allows full cross-examination of the victim and that the jury, through the camera, will be able to view the demeanor of the child during testimony. This is truly a child protection law.

On behalf of the Governor's Crime Commission, I appreciate your interest and concern for child victims. We look forward to working with you and offer you and your research staff our support and assistance.

WAKE AREA HEALTH EDUCATION CENTER

Wake County Medical Center 3000 New Bern Avenue Raleigh NC 27610

January 24, 1986

Dear Sirs:

I am writing you to support the use in the courtroom of video transmission of children who have been abused and to support the use of videotapes when abused children are interviewed.

I am a pediatrician, Chief of Pediatrics at Wake Medical Center in Raleigh, and have been a Child Medical Examiner for the state of North Carolina for eight (8) years. Along with Dr. Susanne White, I interview all the sexually abused children in Wake and Johnston Counties that come to the attention of the Department of Social Services and many that are referred by private doctors and the police department. We see some 4-7 children per week.

If these interviews were taped by the State Bureau of Investigation or by us with their supervision, it would help judges and juries see how the information was elicited from the children, and that we don't ask leading questions. Video transmission in court would relieve the child of the trauma and intimidation of a courtroom full of strangers and having to face his/her abuser.

Sincerely yours,

David L. Ingram M.D.

David L. Ingram, M.D., Chief
Pediatric Service
Wake Medical Center

Associate Professor of Pediatrics
UNC School of Medicine-Chapel Hill

DLI/bbr

TESTIMONY OF DISTRICT ATTORNEY J. RANDOLPH RILEY
TENTH PROSECUTORIAL DISTRICT
Before the Legislative Study Committee on Child Testimony
of the Legislative Research Commission, State Legislative Building, Raleigh

January 24, 1986

There have been a number of surveys about the incidence of child sexual abuse, ever since the Kinsey report in 1953. The latest I'm aware of was published by the Los Angeles Times last August. It was startling to read that their survey of some 2,600 adults indicated that 22% have experienced at least one incident of child abuse as children: 27% of the women and 16% of the men surveyed. In 39% of the cases, sexual intercourse was repeated--it was not an isolated incident. Of the abusers who were identified, 42% were acquaintances, 27% were strangers and 23% were relatives.

This corresponds with our experience in Wake County. Child abuse reports from the Wake County Department of Social Services to my office have shown a dramatic increase which corresponds, I believe, to the increase in public awareness and concern. For example, in 1982 there were 97 instances of child abuse reported, whereas in 1983 there were 112, followed by a dramatic increase during 1984 to 202 (of which 84 were sexual), then dropping off in calendar 1985 to 170 (of which 83 were sexual). Thus far during 1986 we've received 33 reports (17 being sexual).

Cases presently pending in Superior Court include 39 defendants charged with child abuse, while cases from the Department of Social Services presently being investigated number 70. We also receive, I should note, additional cases from law enforcement officers not reflected in the Department of Social Services statistics.

The Department of Social Services is required by law (G.S. 7A-548) to immediately report to the District Attorney's office any case in which evidence of child abuse is found. The majority of the criminal cases of child abuse originate from the Department of Social Services reports although a significant number also arise from law enforcement investigations (for example, the Manchester computer obscenity case). Since 1981, all Department of Social Services reports have been reviewed by one prosecutor and decisions made to refer certain cases to law enforcement directly or to one of the two other prosecutors who specialize in this area. In some instances there is insufficient evidence for criminal charges to be brought and this office works closely with the Department of Social Services to guarantee that the child will nevertheless be protected. Because we have set as a priority good working relationships with the Department of Social Services and law enforcement, professionals in both areas frequently call our office or deliver reports in person knowing that there will be a designated person to work with them. We also often determine that sexual abuse is occurring in another jurisdiction (e.g., while visiting grandparents in Virginia) and we contact the appropriate authorities. Since 1979, we've had a particular interest in pursuing this type of crime. For that reason, we've established a unit that extends beyond our office and has always

included at least one prosecutor who specializes in this area. But before July 1981 child abuse cases were assigned as other felony cases to the felony prosecutors. Three different prosecutors screened the reports which this office received from the Department of Social Services.

Effective July 1981, Assistant District Attorney Evelyn Hill became responsible both for screening all reports from the Department of Social Services and for prosecuting all cases involving a victim age 12 or less. By having one person in the office primarily responsible for these cases we were able to develop expertise in the area of prosecution of child abuse cases; we were able to provide for law enforcement and for the Department of Social Services one person knowledgeable in this area as a reference source; and we were able to develop consistency in the disposition of these cases.

When in October of 1983 the number of child abuse cases was seen to have increased dramatically, it was no longer feasible for just one prosecutor to handle all of these cases. A second felony prosecutor was assigned to work with Evelyn, although primary responsibility did and still does rest with her to monitor all Department of Social Services cases and all child abuse cases.

Presently we have three prosecutors who have special training and experience in the area of prosecuting cases of child abuse and they work closely together. All Department of Social Services reports continue to come to Evelyn, who after reviewing each report may request that one of the other two prosecutors handle the case. A major benefit of this program is that a multi-disciplinary approach, or what we call a "team" approach, can be taken in the area of child abuse. This means that the social worker, law enforcement officer, medical personnel and assistant district attorney can work closely together to minimize any trauma the child may experience as a result of reporting that he or she has been molested or abused. For example, joint interviews are frequently conducted with the victim so that the child does not have to undergo the trauma of repeated interviews with a person from each area. Because of the close working relationship that has been established between our office and the Department of Social Services, the timing of each case can be coordinated to be in the best interest of the child. For instance, if the child is being placed in foster care our office may wait until the child has an opportunity to adjust to that move before setting the matter for trial.

This unit has been responsible for prosecution of nearly every case of child sexual assault, including the Fearing case. I can't talk about the evidentiary aspects of that case, because it has been sent back for retrial. We are disappointed, of course, in that when the Kansas Supreme Court considered their statute based on the principles set out in Ohio v. Roberts, 448 U.S. 56 (1980), that Court, without questioning the practice, permitted parties to stipulate that the child in the case was disqualified to testify. That's exactly what happened at trial in Fearing, but our Supreme Court disapproved, insisting that the judge himself examine the child. They found "error in the trial judge's adopting counsel's stipulation in concluding that the child victim was incompetent to testify, he never having personally examined or observed the child's demeanor in responding to questions during a voir dire examination." Please bring our law in line with Ohio's.

Child abuse cases are difficult to prosecute. They are difficult to prosecute from an emotional standpoint because, obviously, they require a great deal more from the prosecutor than the typical drug case might. Because the majority of victims we see are female, we have assigned mostly female prosecutors to this unit. Children who have been victimized by men, and the majority of offenders are men, are less likely to trust a male figure. And trust is a key element in successful prosecution. Where it may take only a few minutes to talk to an adult victim to ascertain what happened, it may take several hours to talk to a child before the child will feel comfortable enough to talk about the abuse. Sometimes prosecutors establish rapport by coloring with a child, drawing pictures, or just walking through the courthouse talking with the child. Extraordinary care must be taken to establish an open and honest relationship with the victim.

These cases are hard to prosecute from a legal standpoint, too, in that the majority of them do not benefit from much physical evidence to corroborate the children's statements. Clearly, fondling a child leaves no physical marks although there might be invisible psychological scars, and, in fact, usually are. Children may be intimidated not to tell about the abuse so that by the time we hear of it, whatever physical evidence there might originally have been is long since gone. Often times a case boils down to the child's statement about what happened against the adult's, and although our life experiences teach us otherwise, for some reason we are quicker to believe that a child is lying than that an adult is.

One of the benefits of specialization such as we have developed is that we have also developed expertise in the area. Our prosecutors in the child abuse bureau have been called upon to provide seminars and training for other prosecutors state-wide as well as for judges, social workers and law enforcement officers. Our prosecutors have learned how to interview children to insure that the child's statement is accurate and truthful. Our prosecutors have learned what to look for to coorborate the child's statement so as to be able to use that in the courtroom. (For example, specific details that children give that should not be within their realm of knowledge or experience--e.g., something white and sticky came out of daddy's pee-pee). Our prosecutors have learned how to familiarize the child with the courtroom so that the court process will not add to the trauma the child has already experienced. Before a child ever testifies in court, he or she has been brought to the courthouse, has met with the prosecutor at least one if not more times, and has been in an empty courtroom and learned who will sit where and what their functions will be.

The greatest obstacle to prosecuting a child sexual offender is that we as a society do not want to believe that an adult would use a child for sexual gratification and pleasure and therefore we are quick to look for any explanation other than the real one. For example, it is easier to believe that a three-year-old is lying about sexual abuse than to believe that an adult man is using the child for sexual pleasure. The irony is that we as a society know when our children are telling the truth and when they are lying. They lie, as adults do, to get out of trouble--they lie about grades, about breaking a window, about being late coming in. They don't lie so that they can be in trouble and that is what they perceive as happening when they report sexual abuse. They are suddenly brought

into a courthouse or police station and asked to give intimate and embarrassing details. It doesn't make sense for a three-year-old to lie about oral sex with his father when the concept of oral sex is not within his knowledge absent the experience itself. Yet there is a public fear evidenced in jurors, judges and lawyers alike that while they may be able to tell when an adult is telling a lie they are somehow going to be fooled by this little child and therefore there is almost a presumption that the child is fantasizing which the prosecutor must overcome. For a number of reasons, as I have said, child victims do tell the truth about what happened to them. They don't fabricate, but there is a lot of reticence that's inherent in their perception of what happened to them and what they should say about it. That reticence, far from decreasing, increases with repetition of the story. So we want to avoid leaning on the child too heavily or repeatedly.

The majority of children who are victimized can testify in court. However, in some instances they are either too young to sit still and to pay attention to what is going on or too traumatized to endure facing their assailant to be able to testify. It is wrong for offenders to escape justice simply because they have chosen a particularly vulnerable victim. Our goal, your goal, the goal of the criminal justice system ought to be to get the truth before the jury so that they can decide what happened. When a crippled person testifies in court efforts are made to be sure that that person is comfortable and can testify without discomfort. When a very old person testifies in court, extra consideration is given. But few judges and few defense lawyers will extend the same courtesies to a child witness. It is almost as if the child must endure a trial by ordeal and behave and act like an adult before his or her testimony will be accepted.

It is not easy to sit down with a child whose trust has been broken, whose right to an innocent childhood has been violated and to make that child feel comfortable in talking about the experience. It is draining for all professionals involved in this area and it is draining for the prosecutors. And it is frustrating for them to have so many obstacles in their paths, obstacles that aren't present in murder cases or drug cases or arson cases. And yet if we don't care, who will protect the children?

I must disagree with Crime Commission Executive Director Michelle Rippon's suggestion that your mandate should be to get this bill out and passed as soon as possible. I think your focus will be much too narrow if that's what you try to do. If you think about what Dr. Ingram has said, there are a lot of other things that can be done that can perhaps be more helpful than using modern technology whereby testimony can be received at the time of trial.

Recent cases set a good trend of deciding where statements by child victims fall in the established hearsay exceptions. We don't want you to tamper with that. In State v. Sylvester Smith, 315 N.C. 76 (10 Dec. 1985), the Supreme Court, in an opinion by Justice Meyer, decided that in the trial of the defendant for engaging in sexual relations with girls aged four and five the statements of the girls to their grandmother were "properly admitted as substantive evidence pursuant to the Rule 803(4) heresay exception," as statements "made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment," where

they "immediately resulted in their receiving medical treatment and diagnosis." Although between two and three days elapsed between the event and the statements, the grandmother's "testimony was also admissible under the excited utterance exception of Rule 803(.):" "A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition."

We don't have money in our budget to buy a set of the anatomically correct dolls that Child Medical Examiner Dr. Dave Ingram talked about. Could we have just $150 for a set that we could pass around among the District Attorneys in the State? This may seem a mundane consideration, but it's very real when you are confronted with these cases. Cindi P. Dorman, Director of the Office of Services to Victims of Sexual Assault of the Council on the Status of Women, is presently passing the hat to help buy the set of dolls with all the parts which we have been lent by the maker, who lives in Durham. Would it not be more appropriate for you to include a few more dollars for such purchases in the budget for the Administrative Office of the Courts?

There is a very good publication by the National Institute of Justice, furnished us by the Conference of District Attorneys, called When the Victim is a Child. It is a balanced, clear, concise overview of what's going on in this area. You ought to ask your counsel to obtain copies for you.

For example, it gives a clear summary of the two-pronged test the Supreme Court set in Ohio v. Roberts. The Court considered whether the admission at trial of evidence, namely preliminary hearing testimony, when a witness is unavailable violates the defendant's right to confrontation. The test it established requires that: "(1) The witness must be found to be unavailable. This usually means that the witness is incompetent, asserts a privilege, refuses to testify, claims lack of memory, is ill, is dead, or is absent despite reasonable efforts to procure the witness. (2) If the witness is truly unavailable, then the evidence must either fall within 'a firmly rooted hearsay exception' or there must be circumstantial guarantees of trustworthiness." (Pp. 50-51, When the Victim is a Child, Ch. V, "Attempts to avoid direct confrontation.") Even the lay members of this committee can understand that test.

My office is available as a resource to you, particularly Evelyn Hill, who handles many of these cases. Although District Attorneys across the state support the legislation you are considering, that is only part of a broader issue. You ought to consider other things, such as Dr. Ingram's suggestion that the initial videotape be made admissable on its own, and without the condition that the child first take the stand and testify at trial.

Good luck and Godspeed.

TESTIMONY OF DISTRICT ATTORNEY MICHAEL F. EASLEY,
13TH PROSECUTORIAL DISTRICT
BEFORE THE LEGISLATIVE STUDY COMMITTEE ON CHILD TESTIMONY

January 24, 1986

Prosecutors face the problems of child testimony on a day-to-day basis. Many of us have had the unfortunate experience of seeing a child molester or a murderer go free because the only person who can identify the defendant is a child who can't testify. The criminal justice system is not now designed to accommodate the needs of children.

The job of the District Attorney is to do justice. We look at a child victim and realize that could be our child. At the same time, we look at the defendant and realize that could be us. When you draft legislation, you must balance the defendant's right to confrontation with the child's right to be a child. Some children can testify one minute, then can't the next minute. Some are as articulate as any lawyer in the State and some go into the courtroom and practically eat the microphone.

Some of the problems that need to be addressed concern a judicial process that is designed for adults. It is foolish to think that a 4-year-old child is going to be able to come into a court room, deal with people bigger than her and who use legal mumbo-jumbo, then be able to articulate the most personal things that have ever happened to her. I've prosecuted two cases involving 4-year-old victims. I would not have been able to do this except for the fact the judge bent over backward to assist me, and that the child in both cases was very bright.

We are concerned also about the number of times a child will have to testify. If no alternative way to testify can be worked out, perhaps the first testimony can be used again if there is a hung jury, mistrial, or the case is sent back for retrial after appeal. We want to get the child to testify then let her or him go home and get on with being rehabilitated as soon as possible.

As a result of the two cases just mentioned, which broadened the hearsay exception, we can do some things we couldn't do before. We want the Committee to look at those cases and see how they may interact with the legislation that is pending.

We would like you to think about ways to make the courtroom less traumatic in appearance like letting the child bring their own chair. Judges are reluctant to do that sort of thing without some statutory authority, and rightfully so; a case might be reversed on appeal because

the judge merely tried to make the child more comfortable in the courtroom.

Senator Hipps introduced the bill to allow videotaping of Child Testimony, with the support of District Attorneys. You have heard basically what the bill involves, and that these procedures are controversial. We supported the move to take this to study commission, because similar laws were on appeal in several states. It seemed best to wait and see the outcome of those cases and the two child testimony cases pending in this State. We agree with the Committee that the legislation should be considered in a broader context, including action that might be taken within the existing system. If we try to find a solution too quickly, we may cause more problems than if we are cautious.

We don't yet know what the solutions are or what we should do. The videotape approach looks like a viable option, but we need to identify the problems first, then move from there toward a solution.

The District Attorneys want to do anything they can to assist the Committee; let the Executive Secretary of the Conference know when we can help, and she'll contact us. The District Attorneys are the only ones that have practical experiences in prosecuting these cases. We can relate our experiences to you and help you identify the solution.

We tend to blame the child for not being able to cope with our legal system when, in fact, we ought to blame ourselves for not creating a system within which the child can properly function. We want to carefully protect constitutional rights, but surely we could do away with some of the Procedural pomp and circumstance that is otherwise unnecessary.

Some areas for possible review by this committee could be:

- the substantive case law that has been alluded to today;

- practical applications of a videotaping law, such as who would do the videotaping and who would furnish the equipment.

- an existing N. C. Statute which allows a judge to exclude everyone from the courtroom who is not involved with the case might be expanded to make it more comfortable for the child;

- adding more resources, such as the witness coordinator that ten districts now have, who can take care of the child while the prosecutor tries the

cases. I can take care of the child up to the point that I have to select the jury, but I can't create diversions so she doesn't feel her anxiety. The Witness Coordinators can. Just yesterday, we got a conviction on a child rapist. The Coordinator went out and got a cake and had a party for the child, it was her birthday, so she was diverted and wasn't concerned about the jury being out. Every district needs one of these Coordinators.

TESTIMONY

DANIEL C. HUDGINS, DIRECTOR

DURHAM COUNTY DEPARTMENT OF SOCIAL SERVICES

CHAIRMAN, LEGISLATIVE COMMITTEE

NORTH CAROLINA ASSOCIATION OF COUNTY DIRECTORS OF SOCIAL SERVICES

April 16, 1986

CHILD ABUSE TESTIMONY AND CHILD PROTECTION LEGISLATIVE STUDY COMMITTEE

My appearance before you today concerns a significant change which was made in the 1985 session of the General Assembly. G.S. 14-320 was amended to remove the requirement for the consent of the local County Department of Social Services director to plan for a private or independent adoption. Protection previously afforded by this statute for children who are separated from their parent before six months of age is no longer provided when the parent chooses to place the child in a private or independent adoption.

It is my understanding that at your first meeting on January 23, 1986 you heard testimony from Mrs. Mary Taylor, President of the Children's Home Society of North Carolina, who opposes this change. My appearance before you today is to support those concerns expressed by the Children's Home Society and to indicate that the North Carolina Association of County Directors of Social Services has unanimously voted to include in our Association's legislative plan the repeal of this action taken as a result of House Bill 783.

County Departments of Social Services and private adoption agencies have the qualified professional staff to assure that the best interest of children and their biological parents are protected in instances where a plan calls for the separation of the child under six months from its biological parents. Our Association shares the concern expressed by the Children's Home Society related to independent placement and believe that the action taken in the 1985 session of the General Assembly in approving House Bill 783 is a move backwards instead of forward in protecting the best interest of children.

General Statute 14-320 has provided some protection for the expectant mother in resisting the pressure of attorneys, physicians, etc. That protection is now effectively removed as the only non-interested party now does not have the right to even be involved in granting that consent. Our Association has grave concerns about this change. In Durham County, we have already been contacted by hospital staff who have expressed concern about a mother's decision to give up her child and were appalled to know that our Department no longer had jurisdiction to be involved in such an action.

I am not aware of any group who supports this change nor do I believe that members of the General Assembly were fully aware of the implications of this bill and the effects it could have on child placement in North Carolina. The Directors Association is supported in its opposition to this change by the North Carolina Social Services Association, and I believe the Department of Human Resources is represented here today and that they share these concerns.

Concern about this issue has also been brought to the North Carolina County Commissioners Association through their Human Resources Advisory Committee.

Appearing with me today is Ms. Esther High, Supervisor of our Department's Home Finding Unit and a former adoptions social worker. We would welcome any questions or concerns you might have about the impact of this legislation.

In closing, let me say that I appreciate the interest of this Commission in addressing this very serious problem. The North Carolina Association of County Directors of Social Services would encourage you to support repeal of the changes to G.S. 14-320 that resulted from the passage of House Bill 783 in the 1985 session of the General Assembly.

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WILLIAM B. CRUMPLER

SALLY H. SCHERER

April 16, 1986

Mr. Grover Burthey, Staff Attorney
General Research Division
North Carolina General Assembly
Raleigh, North Carolina

RE: Proposed Legislation Concerning Child Abuse Testimony

Dear Mr. Burthey:

I write this letter (as you requested during our phone conversation on April 15) to express my adamant opposition to proposed legislation that would allow testimony of children in abuse cases to be admitted in court proceedings by televised or videotaped means. I apologize for not being adequately alert earlier in this regard and therefore for being slow in expressing my feelings.

The proposed legislation that I have reviewed appears to conflict sharply with constitutional standards relating to fair trials, including the rights of confrontation and of effective assistance of counsel. The United States Supreme Court in Mattox v. United States, 156 U.S. 237, 242-243 (1895), described the purpose of the confrontation rule as follows:

> The primary object of the constitutional provision in question was to prevent depositions or ex parte affidavits, such as were sometimes admitted in civil cases, being used against the prisoner in lieu of a personal examination and cross-examination of the witness, in which the accused has an opportunity, not only of testing the recollection and sifting the conscience of the witness, but of compelling him to stand face to face with the jury in order that they may look at him, and judge by his demeanor upon the stand and the manner in which he gives his testimony whether he is worthy of belief.

More recently, the Court mentioned that the described means for testing a witness under cross-examination "are so important

that the absence of proper confrontation at trial 'calls into question the ultimate integrity of the fact-finding process.' " Ohio v. Roberts, 448 U.S. 56, 64 (1980). Confrontation, then, requires more than an opportunity to cross-examine a witness. It contemplates face-to-face accusation in the presence of the defendant and in the presence of a jury. A "face-to-face" process will help impress upon witnesses the solemnity of the occasion and the importance of being truthful whether the witness is a child or an adult.

From my experience as a prosecutor and as a defense attorney, I recognize the serious problems associated with children testifying in court about traumatic matters, especially when they fear the defendant, who may have done terrible things to them. Nonetheless, that defendant not only faces substantial prison time upon conviction, but also we are supposed to presume him to be innocent. The legislation under consideration reflects an attitude that I see developing in abuse cases to the effect that the accusation would not have been made unless it was true. In short, the presumption of innocence seems to be forgotten in abuse cases, and defendants have practically assumed a heavy burden of disproving the State's case rather than having the presumption of innocence force the State to prove its case beyond a reasonable doubt.

Too, there seems to be some assumption that children do not lie in abuse cases, at least young children. Even if that were true in the sense of deliberate falsification of events or facts, children (particularly young children) are highly prone to suggestion and susceptible to misinterpretation of ambiguous acts. They can easily confuse fantasy with reality or remember things in a way suggested to them. They often want to please someone such as a parent and therefore may tune in to what they think that someone wants to hear. Let us not forget that in some cases it is the innocent defendant who needs to be protected from the child rather than the converse.

My conceptual difficulties with the proposed legislation are reinforced by its mechanical difficulties. For example,

suppose a defendant represents himself? How will he be afforded an opportunity to cross-examine the child? Moreover, if he has an attorney, "appropriate intervals" for consultation will not be sufficient for conducting cross-examination or for providing effective assistance of counsel. There must be a closer, quicker and continuing opportunity for communication between client and attorney in order to follow up effectively on points made during cross-examination and perhaps during direct examination. The demeanor of the child and other pertinent circumstances, such as the child looking to some person present in the courtroom for nods or similar encouragement, cannot be determined by the jury well enough through televised means as contrasted with live testimony in the presence of a jury. Television cannot convey realism as well as "live" testimony before the jury can.

Other aspects of the proposed legislation that trouble me include the age concerned (thirteen is far too old for this sort of protective legislation), what constitutes necessity for the procedure and unavailability, and the cost and practical administration of the procedure. Further, this procedure inherently creates prejudice against the defendant because it clearly demonstrates to the jury that he must be a bad guy in order to justify the procedure. And where do we draw the line? Don't the considerations underlying this legislation pertain to retarded individuals and very elderly ladies who may be victims of sexual assault?

In summary, I am sympathetic to the idea of protecting a child witness as much as we can. That sympathy, however, must be balanced with constitutional standards concerning the fairness of trial. The proposed legislation I have examined blatantly violates fair trial standards. We can't have it all, but fair trials should be the last thing to go.

Sincerely,

William B. Crumpler

WBC/mh

SESSION 19 85 Short Title: Child Abuse Testimony G-032

INTRODUCED BY:

DRAFT
FOR REVIEW ONLY

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ELECTRONIC TRANSMISSION OR RECORDING OF THE TESTIMONY OF CHILDREN IN CASES OF PHYSICAL OR SEXUAL ABUSE OF CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. Article 73 of Chapter 15A of the General Statutes is amended to add a new G.S. 15A-1244 to read:

"§ 15A-1244. Electronic transmission or recording of testimony of children in cases of physical or sexual abuse of children.--(a) Coverage of Section. This section applies to every procedural stage of any criminal prosecution in which the victim is a child under the age of 13 years and the defendant is charged with child abuse under G.S. 14-318.2 or G.S. 14-318.4, an offense under Article 7A of Chapter 14, crime against nature under G.S. 14-177, incest under G.S. 14-178 or G.S. 14-179, indecent liberties under G.S. 14-202.1, sexual exploitation under G.S. 14-190.16 or G.S. 14-190.17, promoting prostitution under G.S. 14-190.18, or participating in prostitution under G.S. 14-190.19. This section also applies to any offense being jointly tried with one of these offenses.

(b) Judge Must Make Preliminary Determination. Before ruling on a motion made under subsections (c) and (d), the judge must first hold a hearing and determine whether the

requested procedure is necessary and whether the child in question is unavailable. The judge must make specific findings of fact, on the record, to support his determination, and may grant a motion under subsection (c) or (d) only if he determines both that the procedure is necessary and that the child is unavailable. Unavailable includes psychological unavailability of the child, based on harm to the child that would be caused by the trauma of appearing in the courtroom to testify.

(c) Electronic Transmission of Testimony. In a criminal prosecution covered by this section, the judge may, on the motion of the State, order that the testimony of the child victim or of any witness under the age of 13 years be taken in a room other than the courtroom and be televised by closed circuit equipment to be viewed in the courtroom as substantive evidence in the proceeding. Only the attorneys for the State, the attorneys for the defendant, those persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be in the child's presence during his testimony. The judge must provide a method of his communicating with those in the room with the child from the courtroom. Only the attorneys and the judge may question the child. The persons operating the equipment must be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The judge must permit the defendant to observe and hear the testimony of the child and to communicate with his

attorney at appropriate intervals concerning the testimony, but must ensure that the child cannot see or hear the defendant.

(d) Videotape Recording of Testimony. In a criminal prosecution covered by this section, the judge may, on the motion of the State, order that the testimony of the child victim or of any witness under the age of 13 years be taken outside the courtroom and be recorded for presentation at trial as substantive evidence in lieu of the child's personal appearance and testimony. Only the judge, the attorneys for the State, the attorneys for the defendant, those persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well being of the child may be in the child's presence during the taking of the child's testimony. The persons operating the equipment must be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. Only the attorneys and the judge may question the child. The judge must permit the defendant to observe and hear the testimony of the child and to communicate with his attorney at appropriate intervals concerning the testimony, but must ensure that the child cannot see or hear the defendant. The judge must ensure that:

(1) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(2) The recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate;

(3) Each voice on the recording is identifiable; and

(4) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(e) Testimony of the Child Not Required in Courtroom. If the judge orders the testimony of a child to be taken under subsection (c) or (d) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken."

Sec. 2. This act shall become effective October 1, 1987.

IMPACT OF LEGAL INTERVENTION ON SEXUALLY ABUSED CHILDREN

an interim final report for NCCAN grant No. 90CA0921

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Executive Summary

Many observers are concerned that the social service and court interventions that follow a report of sexual abuse may have significant detrimental effects on the child. We conducted a cohort study of sexually abused children to assess the risk of criminal prosecution, testimony in either criminal or juvenile court, and foster care placement on the victim.

All children between 6 and 18 years of age who were reported for sexual abuse to the county social service department in any of 11 North Carolina counties were eligible for the study. Children were excluded if the perpetrator was not a member of the family or in a 'caretaker' role. Upon referral, children were quickly referred to a project examiner. The research examination consisted of an incident-focused interview, the Peabody Picture Vocabulary Test, The Child Behavior Checklist, and a structured psychiatric inventory (the Child Assessment Schedule or CAS). Additional data were collected from the child's social worker. Five months later a duplicate evaluation was performed. A questionnaire about court appearances and provision of therapy was substituted for the incident-focused interview. Our analysis compared changes on the standardized instruments as they related to the different experiences of the children.

The initial evaluation was completed on 84 children; follow-up data are complete for 48. Five children had an incomplete second evaluation, 11 were lost to follow-up, and 20 were not yet due for the second exam. The sample had a mean age of 12.4 years and was 90% female. The abuser was the biological father in 37.5% of the cases and the stepfather in 40%. Simple stratified analysis suggested that children awaiting criminal prosecution of the perpetrator suffered from this experience while testimony in juvenile court may have facilitated resolution of anxiety.

The mean score (number of abnormal responses) to the CAS was 47.4 at the time of the initial intake, although there were substantial differences in mean scores between children later involved in criminal prosecution and those who were not. At follow-up the mean CAS score dropped 33% for the subsample uninvolved in criminal prosecution compared to a decline of 25.7% for the 1/4 of the cohort waiting for action from the criminal courts. ($p=.14$) On the depression subscale, the children uninvolved in criminal prosecution were twice as likely to demonstrate substantial improvement in their degree of depression.($p=0.027$) Children testifying in juvenile court prior to the 5 month followup had a 36.4% decline in anxiety scores compared to a 16% decline among children not given that same opportunity. ($p=0.054$) Removal from the abusing home appeared to reduce the degree of general distress among the children by 35% but this last result was not statistically significant.

INTRODUCTION

Intrafamilial child sexual abuse has been reported to be related to a wide variety of behavioral and psychiatric disorders in the victim child.(1-4) Short term effects are reported to include withdrawal, depression, anxiety, and school problems.(1-3) Knowledge of the long term effects has come from clinical reports, cross-sectional studies, and retrospective analysis.(5-7). Reported findings include suicidal behavior, anxiety and fear, negative self concept, isolation, and sexual problems(3-4). Finkelhor and Browne recently synthesized the literature on the effects of sexual abuse on the child victim into four areas: traumatic sexualization, stigmatization, betrayal, and powerlessness.(8) Unfortunately, the nature of the study designs chosen and the format of the analyses do not allow the researcher or clinician to estimate the likelihood of adverse outcomes for individual children even where the dynamics appear well understood.

Estimation of the likelihood of adverse outcomes is becoming increasingly important. There are a number of professionals who express grave concern about the impact of the intervention process on the child sexual abuse victims.(9-13) One researcher has speculated that the "cure" may be worse than the symptoms(13) while another has recently written an editorial for a major urban newspaper decrying the trend toward resolving family dysfunction and child sexual abuse through the criminal justice system.(10) Court involvement may delay the resolution of symptoms, intensify existing problems, or even create a new set of stressful circumstances with which the child must cope.(9) Each of the areas of potential impact of sexual abuse described by Finkelhor and Browne may be adversely affected by the intervention process.(8)

This prospective cohort study was designed to assess the impact of the intervention process on the child sexual abuse victim. Specifically, we attempted to assess the degree of additional harm for child sexual abuse victims from foster care placement, criminal prosecution of the perpetrator/family member, and testimony in either criminal or juvenile court. We studied a cohort of child sexual abuse victims from the time of initial discovery through a five month follow-up period and compared the mental health functioning and adjustment of the victims involved in each of these types of intervention with victims who did not share that form of intervention.

METHODS

Eleven cooperating county social service agencies in North Carolina referred intrafamilial sexual abuse victims for study. A psychiatric screening of child sexual abuse victims was made available to the social worker and family at no cost in return for participation in this cohort study. Informed consent was obtained from the parent or guardian after both the social worker and the study interviewer explained that participation was entirely voluntary and that the family could refuse to participate or withdraw later without penalty from the agency.

Regression analysis of the CAS results, used to control for multiple interacting effects, failed to confirm the apparent detrimental effects of waiting for criminal court proceedings and the beneficial effects of juvenile court testimony. However, both simple and linear regression analysis of the Child Behavior Checklist data appear to confirm the adverse effect of waiting for criminal court action upon the child victim. The Child Behavior Checklist data also support the conclusion that allowing the child to testify in juvenile court has a beneficial effect.

Because of limited sample size, these data must be interpreted with caution. This cohort study will be continued and further data, from a larger sample are expected in the next few months.

Children were eligible for enrollment if they were between the ages of 6 and 18 and were reported to, and confirmed as abuse victims by, the local child protective services unit during a 22 month period which began December 1, 1983. Subjects were excluded from the sample if the interviewer felt that the assessment instruments were inappropriate for the child's developmental level or the sexual abuse was not substantiated by the investigating social service agency. The interviews occurred at the University of North Carolina for children from all but three of the counties. Children in three distant counties were interviewed by local psychologists trained to conduct the interviews.

After obtaining informed consent from the parent or guardian, each child was interviewed using a structured psychiatric inventory. The interview also included a history of the alleged events and a test of receptive vocabulary.(#). These instruments were administered to the children by a child psychiatrist, psychologist, or clinical social worker. If the child's parent accompanied the child to the interview, the session was completed with a debriefing which included limited discussion of the findings. A written report of the evaluation was sent to each child's social worker. The entire interview took approximately two hours. Details of the interview battery follow below. Additional data were sought from the investigating social worker and the parent. Five months later the child was recalled for a second interview.

The second interview was largely a repeat of the first except that the incident-focused interview was replaced with a questionnaire about life changes and interventions experienced by the child in the interim. Again, supplemental data were obtained from the social worker and the parent, guardian, or foster parent. If the child was involved in juvenile court or the criminal prosecution of the perpetrator, and the court process had begun, a trained observer attended the court sessions to record the nature of the experience.

The Study Instruments:

The initial interview with each child consisted of four parts: a semi-structured interview about the allegations of abuse, the Child Assessment Schedule (CAS),(21-24) the Child Behavior Checklist-Parent form (CBC-P),(25,26) and the revised Peabody Picture Vocabulary Test (PPVT-R).(20) Additionally, we sought permission to obtain a teacher form of the Child Behavior Checklist from the child's teacher.(25)

The incident-focused interview was designed to build rapport with the victim, confirm the basic details of the alleged abuse, and assess the victim's feelings about the abuse experience. This latter area included asking about the aftermath of reporting and the victim's hopes and fears for the future. The interview was specifically designed not to be an exhaustive review of the details surrounding the alleged abuse because of

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copies of these instruments are appended to this report

the investigators concern that this might be harmful to the child. Data about the nature, severity, and length of the sexual abuse were obtained from the child's social worker. The incident-focused interview also included an assessment of the degree of social support felt by the victim from her family and others.

The Child Assessment Schedule is a structured psychiatric inventory developed for clinical assessment of school-aged children in clinical and research settings.(21-25) It provides a systematic and comprehensive interview which is grouped by natural content areas such as school, friends, fears, and family, etc. The CAS has standardized questions, response formats, and probes. The instrument was designed to elicit information necessary for making DSM-III diagnoses for major childhood psychiatric disorders. We modified the research instrument by adding 12 questions which addressed potential adolescent behavior problems. Our version of the CAS consisted of 226 questions which could have been answered "yes," "no," "ambiguous," or "not applicable." Abnormal responses (ie: "yes" and "ambiguous" responses) were weighted and summed for a total psychopathology score and counted within subscales to generate assessments of anxiety, depression, attention deficit disorder, obsessive compulsive disorder, etc. Our interviewers were trained to use and score the instrument by the psychologist who developed it.

The CAS has good inter-rater reliability and the preliminary validity studies are promising. Two published reliability studies are available.(23,24) Hodges and colleagues(23) used 4 raters to evaluate 53 psychiatric patients. The mean intercorrelation was r=.90. Most of the symptom complexes and content areas had interclass correlation coefficients of at least .70. The few areas that did not meet this level were subsequently revised. A study of psychopathology among Dutch children examined the interclass correlation coefficients for two raters on the CAS and found a total score correlation of 0.94 with subscale correlations ranging from .66 to .97.(28)

We conducted our own reliability assessment with videotaped interviews of five children. Among five trained interviewers the pairwise Kappas (pairwise agreement discounting the role of chance) by item ranged from 0.49 to 0.82. Mean Kappas for pairs of raters for the entire instrument ranged from .62 to .80. We also constructed an analysis to produce a weighted Kappa which reflected the intermediate agreement between an ambiguous scoring by one observer and a positive assessment by the other. The Kappas produced by this method ranged from 0.61 to 0.72.

The validity of the CAS has been addressed by comparison to the Child Behavior Checklist, the Kiddie-SADS, and clinical interview.(25,28) The conclusion of this body of work has been that there are significant discrepancies between parent interview and the results of the CAS. Verhulst, et al., reported that the Kendall's tau coefficient, for a group of 11 year old boys, was 0.55 between the parent checklist and the CAS.(28) The average correlation between the CBC-P and the CAS for all children in the Dutch study was 0.42. However, the CAS has been shown to distinguish, in predictable ways,

between normal and "deviant" children in both inpatient and outpatient psychiatric settings.(21,22)

The Child Behavior Checklists, Parent and Teacher forms, were developed by Achenbach(25,26) to provide brief but systematic instruments for assessing social competence and behavior problems among children from preschool age through adolescence. The parent version contains 20 social competence items and 118 behavior items and requires approximately 15-20 minutes to complete. The interclass correlations for the parent form of the test are above 0.9 for test-retest, inter-parent, and inter-interviewer reliability.(26) The validity of the instruments have been well established. In our study these instruments were used as secondary measures of the child's level of functioning. The teacher form was included in the study because we anticipated that the accuracy of parental report in a abusing population could be challenged. We will conduct an analysis of this specific issue in the next few months.

The Revised Peabody Picture Vocabulary Test (PPVT-R) is a measure of receptive vocabulary.(27) It was used as a gross measure of cognitive functioning because of evidence that vocabulary is one of the best single predictors of overall IQ. Cognitive functioning among physical abuse victims has been consistently reported as very low. Some authors have suggested that reports of low self esteem and poor psychological functioning on standardized instruments may have been confounded by the issue of low IQ.(22) The PPVT was included because it is a relatively short instrument with well-studied characteristics. The PPVT-R has been used successfully for children throughout the age range of children in our study.

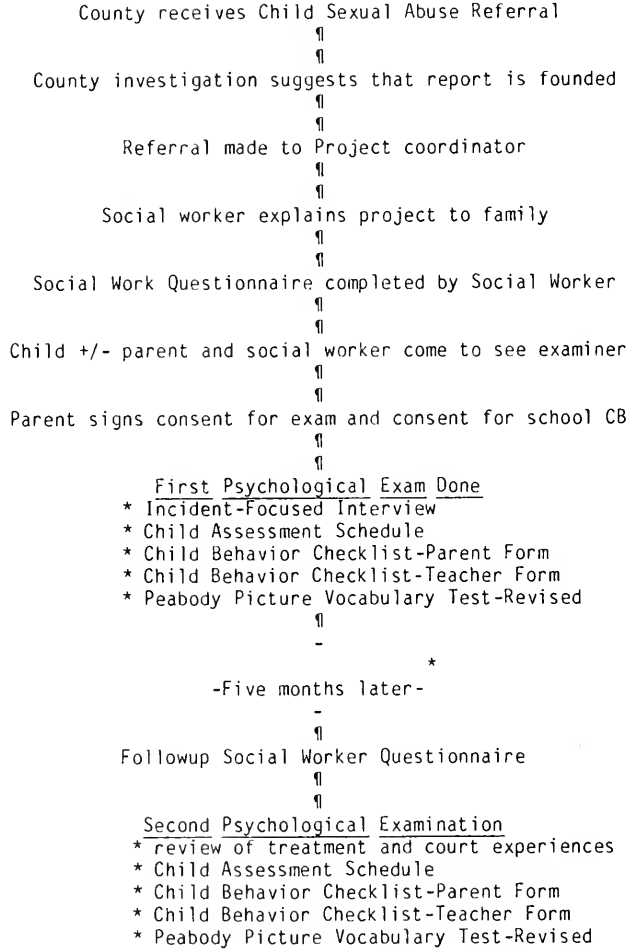
The initial social work questionnaire obtained data about the reported sexual abuse, the child, and the family. This instrument was a modification of a similar questionnaire developed by Berkeley Planning Associates for their analysis of treatment demonstration projects.(29) Our questionnaire added inquiries about how easy the family was to work with, the nature of any plans for treatment by the social worker, and whether the family had made any effort to protect the child victim.

The five-month follow-up questionnaire for the social worker included questions about juvenile court, social service interventions, prosecution of the perpetrator, criminal court appearances by the victim, and psychological counseling of either the child or the perpetrator. A project staff member also attended all known juvenile and criminal court hearings during the five month period between intake and follow-up and completed a semi-structured instrument designed to record the child's experience in the courtroom.

Study Procedures:

During the two month period preceding actual award of the grant and during the first three months of the study we established agreements of cooperation with eight study counties in North Carolina. In three counties we trained local examiners who would conduct the

Figure 1: Study Flow Diagram



* Juvenile and criminal court proceedings, if scheduled, are observed by project staff. Questionnaire data has been obtained from the Guardian Ad Litum and the attending judge. Families are also asked at the 1st exam to talk with an anthropologist.

examinations of the children for the project. The other five counties agreed to send the children to our offices in Chapel Hill, NC for the evaluation. We arranged conferences for the staff in each of the participating counties to explain the project and the requirements for participation. The social workers were instructed to explain the project to parents of children being investigated for child sexual abuse and offer a letter from the project staff which explained the nature and purpose of the project in detail. The social worker would then call the project coordinator to schedule the evaluation. Often, we would arrange to have a medical examination of the child completed on the same visit to Chapel Hill.

The initial evaluation was completed either in the clinical space of the Department of Psychiatry at North Carolina Memorial Hospital or in the offices of the Department of Social and Administrative Medicine. The examiner would begin the interview only after reviewing the voluntary nature of the study and the rights of the parent and child not to participate. Signed consents were obtained or reviewed at this time. The examination usually took two hours.

Twenty-seven families consented to stay an additional hour for an extended interview with an anthropologist. Biological or adoptive parents and siblings of significant duration were selected for interview as foster parents could not have provided the background data sought about the family in which the incest occurred. The interview was of the semi-structured, depth type and focused on the history, composition, and views of the family. These interviews were remarkable for the amount and richness of information they revealed about the family. They also served as complete debriefing of the family and allowed the family to air concerns they had about the investigative process with which they had become involved. A summary of this sub-study written by Sue Estroff and her colleagues is appended to this report and a longer, more detailed analysis is in process.

Four months after the initial referral examination each child's social worker was re-contacted in order to schedule a second interview. This second interview occurred about five months after the first and was, in most cases, conducted by the original examiner. If children were no longer in contact with the agency, we contacted their parents directly to schedule the second interview. Families that could not be reached by their social worker or by telephone were contacted by letter and asked to call the project examiner collect to schedule the appointment.

Several factors such as staff turnover, changes in agency policies, reduction in the number of intrafamilial sexual abuse reports received by the cooperating agencies, and our own change in protocol requiring that subjects be aged six years or older reduced the number of anticipated referrals below the level required to obtain our sample. Three additional North Carolina counties within one hour driving time of the study site were added 10, 11, and 15 months after the onset of funding for the grant. The difficulties and compromises required to work in cooperation with the social service agencies have already been described in a article by this research staff.(30)

Details about the nature of the courtroom experience for the child were obtained by sending trained court observers to the court whenever we learned that one of our study subjects was called to court. We secured permission to attend both juvenile and criminal proceedings involving our study subjects from all of the criminal and juvenile court judges in our study area.

Analysis:

The study instruments collected for each child at the completion of every interview were sent to the University of North Carolina Health Services Research Center for data entry and verification. Reliability checks on the data were conducted by comparing responses collected on the various forms from the social worker, the parent, and the child. The CAS and the social work questionnaires were checked for internal consistency. Areas of inconsistency were noted and corrected by calling the examiner or social worker for clarification. Programs were written to develop subscale and total scores for the CAS and CBC. An analysis file was built from the "cleaned" data and summary scale scores.

Statistical analysis was conducted using the SAS statistical package on the IBM mainframe computer at the University of North Carolina Computation Center.(31) The strategy for the analysis was to develop cross-sectional descriptive data on the entire sample of children seen for the initial examination. These data provided information about the characteristics of abuse, demographics, and psychological level of functioning of this population-based sample of sexually abused children. The subsample with complete data from the initial and five-month evaluations were compared to the larger sample to confirm the absence of bias in the loss to follow-up group. The subgroup with complete data were then examined for change over time in the scores on the CAS and CBC parent form. Improvement by one standard deviation in the total, depression, and anxiety scales of the CAS between the two administrations was cross-tabulated with the child's status with respect to placement out of the home, criminal court proceedings, and juvenile court testimony. Estimates of the crude relative risk for improvement were calculated and tested with either Chi Square or Fisher's Exact test.(32) The relationships between improvement on the psychological tests and court proceedings, juvenile court testimony, and placement decisions, controlling for age, severity of abuse, and length of abuse, was analyzed with regression analysis. The analysis of project data is not yet complete; we continue to explore the relationship of the different mental health measures to each other and investigate the determinants of decision making by court and social service agencies.

RESULTS

The project began accepting referrals December 1, 1983 and continued taking new subjects right up to the end of funding on September 30, 1985. During this period we received 116 referrals from the eleven study counties. Twelve referred children never appeared for their appointments. Another 16 children were seen but were determined to be ineligible for the project because they were either too young, not substantiated as sexually abused, or did not reside in one of the study counties. From the 104 examinations completed during the grant period, 88 eligible subjects were recruited into the study. Four more of the eligible children were excluded after completion of the evaluation because their initial CAS interviews were judged to have questionable validity due to limitations in the child's comprehension. The total number of subjects with complete Time 1 data numbered 84. A description of the sample is presented in Table 1.

Time 2 evaluations (five months after the initial) were completed on 48 of the subjects during the period of the NCCAN grant. This report focuses upon the findings for this group. Further funding has been obtained which will permit us to re-interview these children 18 months after the initial exam and complete 5-month exams on those children who were still not due at the end of the NCCAN grant. The follow-up exams were not completed for 20 of the children because these children were not yet due for follow-up at the expiration of the original funding. Of the 64 children eligible for follow-up, 11 were lost through refusal to return (n=6) or movement out of state (n=5). An additional five children were seen for follow-up but incomplete data were obtained at this examination through examiner error (n=2) or incapacity of the child to complete the interview (n=3).

As can be seen in Table 1, our sample at Time 1 was 84% female and 65% white race. The percentage of males in our sample (16%) is comparable to the percentage of male victims reported in other studies (Finkelhor, 1984). The mean age of just under 12 years at the time of disclosure is somewhat higher than typically found in other studies due to our exclusion of children under age 6. The level of severity of the abuse ranged from vaginal/anal penetration or oral sex (74%), to fondling (23%), to observation or kissing (3%). A father-figure (i.e. biological or stepfather) was the perpetrator in 66% of the cases. The mother was the sole perpetrator for one child and was an active partner with another person for 3 children. In the opinion of the investigating social worker, 17% of the children had suffered severe emotional damage while in over one third of the cases, the social worker estimated the emotional damage to be minimal.

Table 1 also provides a comparison of the Time 1 and Time 2 samples. The two groups were not significantly different on any of the characteristics summarized. There was, however, a tendency for more males and blacks to be lost to follow-up than females and members of the white race.

The psychological characteristics of the 84 children were assessed with the CAS and the CBC at the time of the first exam. The CAS mean score for "global psychopathology" was 44.1. This score, the mean

Table 1: Description of the Initial and Final Study Samples

Characteristic	Initial (Time 1)#	Final (Time 2)+
Number	84	48
Age (mean)	11.9 yrs	12.4 yrs
Female Gender	84%	90%
Race (white)	61%	71%
Type of Abuse		
Penetration / Oral	74%	74%
Fondling	23%	23%
Length of Abuse		
Less than 1 year	45%	48%
More than 1 year	55%	52%
Perpetrator		
Biological Father	36%	37.5%
Stepfather	30%	40.0%
Mother's Boyfriend	13%	13%
Peabody Standard Score (1st int.)	84.24	86.78
CAS General Psychopathology Score (1st visit)	44.1	47.4
CBC-Parent t score (N)	65.5(62)	67.5(35)
CBC-Teacher t score (N)	70.0(43)	62.6(24)
Emotional Damage Assessment (by social worker)		
Severe	17.0%	16.7%
Moderate	47.7%	52.1%
Minimal	35.2%	31.2%

sample with complete CAS interviews at intake

+ sample with complete Time 1 and Time 2 interviews

number of abnormal responses to the 226 questions in the CAS, is almost identical to the mean for the child psychiatry inpatients at the University of Missouri-Columbia where the instrument was developed. The median CBC-Parent initial behavior problem "t" score was 67 with the range extending from 40 to 89.(21) A t score of 70 has been advocated as a cut-off when screening children to identify those children with significant behavior problems. Teacher behavior ratings were obtained at the time of the initial exam for 43 of the children; the mean teacher assigned t score was 62.5 with a median score of 65.

Subscale ratings on the CAS confirmed our expectations that these children would rate high on depression and anxiety and low on self-concept. When compared to norms obtained by Dr. Hodges from children seen in a psychiatric setting, our sample has higher scores for depression, anxiety, general psychopathology, school and family problems, and acting out. The group of child sexual abuse victims was less likely to endorse items suggesting that they had deficits in reality testing.

Data from the initial sample of 84 children reveal the following additional characteristics about the study group. The median age of the mother was 34 years with a range from 23 to 60 years of age. The median age of the father was 37 years of age. The median maternal educational level was completion of high school. Approximately 22% of the mothers had some post high school education. Fifty percent of the families were described as easy to work with by the original investigating worker. Only 29% of the families were reported to have some remorse for the sexual abuse. Thirty-five families (40%) continued to deny that sexual abuse had occurred even after confirmation by social services. Social workers judged that 69% of the perpetrators were either very likely or somewhat likely to repeat the sexual abuse in the future. At the time of the initial evaluation, the social workers for 48 of the children were in agreement with a statement that it was in the child's best interest to prosecute the perpetrator. Another 6 workers expressed their own opinions that the perpetrator should be prosecuted without agreeing that it was in the child's best interest.

Group Experience at the time of Followup:

Fifty-eight social work questionnaires were returned at the time of followup. These questionnaires report on all 48 children who underwent successful testing at the followup exam as well as on the four children whose responses to the CAS were uninterpretable and 6 children who did not keep their appointments and were lost to followup. The social workers reported that 24 (50%) of the 48 children who returned for followup had juvenile court hearings by five months after report. In response to a question as to whether the child had been prepared for juvenile court, 10 social workers indicated that they knew that the child had been prepared by themselves or the agency lawyer. Fifteen of the children had been in one juvenile court hearing, 5 children had experienced two hearings, and the rest had 4 hearings with one exception; one child had 10 hearings in juvenile court. Ten of the 24 children with juvenile court experience had been asked to testify. In 7 of 10 cases the perpetrator was in the courtroom at one or more of the hearings. All but one of the children who testified in juvenile court was cross-examined about his or her testimony.

Table 2: Child Sexual Abuse Victims Experiences 5 months after Report

Experience	N	(%)
Final Sample Size	48	(100)
Placement		
Removed From Home	25	(52)
Placed in Foster Care	13	(27)
Placed in Relative's Home	10	(21)
Returned home by five months from all placements	9	(19)
Court		
Juvenile Hearings held	24	(50)
Child testified in Juvenile Court	10	(21)
Prepared for Juvenile Court	10	(21)
Criminal Prosecution Started or Pending	22	(46)
Child testified in Criminal Court	2	(4)
Child Prepared for Criminal Court	5	(10)
Perpetrator convicted	7	(15)
Perpetrator Incarcerated	4	(8)

Twenty-five of the 48 children seen at follow-up had completed social work questionnaires indicating that the child had been removed from his or her home following the allegation of child sexual abuse (52%). Family foster care was provided for 13 children, relative home placement was the destination for 10 children, and the remaining two were placed in other types of living arrangements. Nine of the 25 children removed from the original home had already returned home at the time off followup. In the space of the five months between exams, 9 of the foster care children had been in more than one home; 2 children had been in four homes and 1 child had been in six foster homes.

Forty percent of the children in the final sample were no longer attending the same school that they had been attending prior to the sexual abuse. A smaller number, 27% were reported to no longer be attending the same church; for 27 children this information was not available.

Approximately half (20/48) of the families reported that the perpetrator was out of the home at the time of followup. No charges were brought against 26 perpetrators. Criminal prosecution of the perpetrator was already complete for 7 perpetrators. Criminal prosecution was planned or in progress for another 15 perpetrators. The social workers could provide few details about the specific charges being brought against the perpetrators. Among the six questionnaires with charges specified, 1 perpetrator was being charged with incest and 1 perpetrator was being charged with 1st degree sexual assault. At the time of the five month followup; all 7 perpetrators had been convicted and 4 of these were incarcerated.

Child testimony in criminal court was a rare event among our sample. Two children had testified prior to the five-month followup exam and another 2 were expected to have to testify soon in ongoing criminal cases.

Impact of the Being Involved in the Criminal Court Process:

The victim child's status at intake and the progress of criminal charges against the perpetrator appear to have some relationship. The sample was divided into three groupings (see Table 3) representing those without criminal court involvement (26 children), those involved in pending cases at the time of follow-up (15 children), and those whose perpetrators had already been convicted or who had plea bargained (7 children). The mean age for the children already involved in current or planned prosecution was 13.5 years compared to a mean age of 12.2 years for children not involved and a mean age of 11.0 years for children with perpetrators already convicted at time of followup. The CAS global psychopathology scores at the initial interview did differ although the difference did not reach statistical significance: the group of children whose perpetrators were already convicted at time of followup had an initial CAS score of 35.1. Those children who could best be described as "pending" had a mean initial CAS score of 43.4. The remaining 26 children who were not to be involved in court had an initial CAS psychopathology score of 53.0. The parental form of the Child Behavior Checklist showed the same trend.

Examination of the change in the global psychopathology score at the five month exam revealed that the children involved in a completed criminal prosecution had an average of 6.4 fewer abnormal responses to the CAS and the children still involved in the court process has 11.2 fewer abnormal responses. The children not involved in any criminal court process had 17.3 fewer abnormal responses ($p=.14$) on the second examination.

When presented in a categorical format, these results may be somewhat clearer. If "improved" is defined as a decline in mean number of abnormal responses in either the overall CAS global psychopathology score or each specific subscale, the results can be expressed as the "risk" of improving for each specific type of experience. The risk of improving one or more standard deviations in global CAS score (the Relative Risk) for children waiting for the court process to be completed, compared to children uninvolved in the criminal court process is 0.57 ($p=0.27$). Children awaiting the criminal court process were just half as likely to experience a 1 standard deviation reduction in the total pathology score than children not involved in the courts. The relative risk of a 1 standard deviation reduction in the depression score between the first and second administrations was 0.17 ($p<0.03$) for children awaiting the court process compared to uninvolved children. Children awaiting the courts were less than 1/5 as likely to experience a decline in their depression as children not so involved. The relative risk of reduced depression between the children whose perpetrator was already convicted and children uninvolved in the criminal courts is 0.0 ($p=.057$); not one of the 7 children with completed criminal court proceedings improved 1 standard deviation on

Table 3: Comparison of Children Involved in Criminal Prosecution of the Perpetrator with Children Not Involved

Characteristic	No Court Process	Criminal Charges Pending	Conviction or Plea bargain
Number	26	15	7
Age	12.2 yrs	13.5 yrs	11.0 yrs
Gender (% female)	88%	87%	100%
Race (% white)	76%	80%	28%
Peabody t score (mean)	87.7	87.4	82.4
Perpetrator			
Father	38%	40%	29%
Stepfather	38%	40%	43%
Mother's BF	15%	7%	14%
Initial CAS (total)	53.0	43.4	35.1
Initial Depress	13.3	9.1	6.5
Initial Anxiety	6.9	6.1	5.6
Initial CBC-Parent behavior t score	68.5	68.4	61.6
Follow-up (5 months)			
Percent improvement on CAS (total) *	33%	25.7%	18.3%
Percent improvement on Depression scale**	38.1%	22.7%	1.1%
Percent improvement on Anxiety scale ***	18.1%	25.1%	29.5%
Percent improvement on CBC-Parent behavior t score ****	2.7%	12.9%	9.7%

* $p = 0.14$
** $p = 0.03$
*** $p = 0.93$
**** $p = 0.37$

the depression scale although it should be noted that this group was already lowest with respect to measurement of depression. The relative risk data are presented below in Table 6.

Impact of Juvenile Court Testimony

Because of small numbers, we could not look at the impact of criminal court testimony on the children. However, a larger number of children had an opportunity to testify in juvenile court. Juvenile

court is a special and often more informal court which has jurisdiction over children who perpetrate crimes and children who are victims of parental maltreatment. Ten children were reported to have had the opportunity to testify in juvenile court. Their baseline characteristics and changes in CAS global pathology score, depression score, anxiety score, and parental behavior problem score are shown in Table 4. The children who testified in juvenile court were much worse off with respect to general psychopathology, depression, and anxiety than their peers who either did not testify or did not experience juvenile court. The children who testified experienced a reduction of 37.5% reduction in overall CAS score compared to a 25.4% (p=.052) drop for the children who did not testify. The change in anxiety score was 16% for the children who did not testify compared to a 36.4% (p=.054) decline for those who did. Again, it is important to note that despite the more dramatic decline in the degree of abnormality for the group that testified in juvenile court, the instruments indicate that the group without juvenile court testimony experience had a somewhat lesser degree of abnormality.

Table 4: Comparison of Characteristics and Outcomes of Children for Children With and Without Juvenile Court Testimony Experience

Variable	Juvenile Court Testimony	No Juvenile Court Testimony
Number	10	38
Age (mean)	12.8 yrs	12.3 yrs
Gender (% female)	100%	87%
Race (% white)	80%	68%
Perpetrator		
Biological Father	50%	34%
Stepfather	30%	42%
Mother's Boyfriend	10%	13%
Peabody Standard Score	81.7	88.0
Initial CAS (total)	57.5	44.8
Initial Depression Score	13.5	10.3
Initial Anxiety Score	8.1	6.0
Follow-up at 5 months		
Improvement on CAS (mean) *	37.5%	25.4%
Improvement of Depression (mean) **	36.0%	29.0%
Improvement of Anxiety (mean) ***	36.4%	16.0%

* p=0.052
** p=0.32
*** p=0.054

Categorical analyses of the effect of testimony on improvement in scores for CAS global psychopathology, depression, and anxiety were enlightening. The crude or unadjusted relative risk of improving 1 standard deviation on the CAS was 1.52 for children who had an opportunity to testify compared to those who did not. The small study

size may be the reason that this risk estimate is not statistically different than a relative risk of 1 (p=.31). Similarly, the relative risk of improving depression, at 1.43, is also not statistically different than 1. However, the unadjusted relative risk of experiencing a decline of one or more standard deviations in the anxiety score is 3.8 (p=0.009). This means that children who testified in juvenile court were 3.8 times as likely to reduce their anxiety scores by one standard deviation as children who did not testify.

Impact of Removal From the Home:

Twenty-five of the 48 children were taken out of the home as a result of the investigation of child sexual abuse. Approximately 1/2 of the children removed from their homes were placed in relative care and 1/2 were placed in foster family care. The two groups had nearly identical mean ages and tests of cognitive function (see Table 5). The

Table 5: Comparison of Characteristics and Outcomes for Children Removed From Their Homes and Children Left With Their Parents

Variable		Children Out of Home	Children Left With Parents
Number		25	23
Age (mean)		12.4 yrs	12.4 yrs
Gender (% female)		96%	82%
Race (% white)		76%	65%
Perpetrator			
Biological Father		32%	43%
Stepfather		36%	43%
Mother's Boyfriend		16%	16%
Peabody Standard Score		85.8	87.8
Initial CAS total Score		52.3	42.1
Initial Depression Score		12.8	9.0
Initial Anxiety Score		7.1	5.8
Initial CBC-Parent t score for behavior		69.8	65.8
5 month follow-up			
Improvement in CAS Score	*	32.5%	24.5%
Improvement in Depression	**	38.3%	19.1%
Improvement in Anxiety	***	22.4%	20.5%
Improvement in CBC-Parent	****	9.2%	3.5%

* p = 0.11 ** p = 0.031
*** p = 0.65 **** p = 0.338

distribution by sex and race was similar although the children removed from their homes were somewhat less likely to have been abused by a natural father and somewhat more likely to have been abused by a mother's boyfriend. The group removed from the home had scored significantly higher in tests of general mental health pathology, depression, and anxiety at the first interview. The resolution in general psychopathology, anxiety, and depression scores appeared to occur at a greater rate among the foster care children although the differences were not statistically significant for any of the changes except for the reduction in depression. The decline in depression score was significantly greater for the group removed from their homes ($p=0.031$).

The categorical analysis of the impact of removal on the the child's mental health failed to reveal any relationships. The crude

Table 6: Crude Relative Risks For Improving Depression, Anxiety, or CAS Total Score At the Five Month Evaluation By Specific Forms of Social Intervention

Exposure	Relative Risk #	"p"
For Overall CAS Score Improvement By At Least 1 Standard Deviation		
Criminal Process Pending	0.57	0.27
Juvenile Court Testimony	1.56	0.31
Removal From Abusing Home	1.37	0.35
For Depression Scale Improvement By At Least 1 Standard Deviation		
Criminal Process Pending	0.11	0.027
Juvenile Court Testimony	1.43	0.41
Removal From Abusing Home	1.61	0.49
For Anxiety Scale Improvement By At Least 1 Standard Deviation		
Criminal Process Pending	0.74	0.45
Juvenile Court Testimony	3.80	0.009
Removal From Abusing Home	1.28	0.50
For Child Behavior Checklist Improvement by 1 Standard Deviation @		
Criminal Process Pending	2.10	0.340
Juvenile Court Testimony	4.88	0.031
Removal From Abusing Home	3.75	0.068

Relative Risk = incidence in exposed / incidence in unexposed. A RR of 1 means that there is no difference in incidence between exposed and unexposed groups.

@ Only thirty children had parents who completed the CBC on two occasions. This group excludes a disproportionate share of foster children.

relative risk estimates were all in the direction opposite from our hypothesis that children displaced from their homes would demonstrate greater levels of anxiety, depression, and general mental health distress. The relative risk estimate (RR) for decreasing the CAS global pathology score 1 or more standard deviations by removing the child from the home was 1.66 (p=0.22). Similar estimates were derived for the depression and anxiety scores.

Linear Modeling:

Linear modeling was conducted to examine the relationships between change on the CAS and juvenile court testimony, removal from the abusing home, or awaiting the criminal court process while controlling for each of the other variables. After controlling for initial CAS psychopathology score, the degree of change in the CAS score was not significantly associated with juvenile court testimony, pending criminal prosecution, and removal from the home (Table 7, Model A). The model "explains" 34% of the variance with the initial psychopathology score emerging as the only significant independent variable. When the same model is tested without including the initial CAS score the regression model is still significant at p=.02 and 16% of the variance is accounted for (Table 7, Model B). In this second model, awaiting the criminal court process emerges as a significant variable with a p value of 0.02 and a beta weight indicating that waiting has an adverse effect upon the child.

-A linear model constructed to assess the relative effects of awaiting criminal court, testifying in juvenile court and being placed in foster care on improvement in the depression subscale revealed that all three exposure variables of interest were non-significant after incorporating the initial measurement of depression into the model. The R(2) equaled 0.484 with only the initial measurement of depression emerging as significant. When this analysis was repeated without including the initial depression measurement as a controlling variable a significant regression model was calculated which "explained" 20% of the variance. In this latter model both being out of the home and having a criminal case pending were significant factors at $p < 0.05$ while testifying had a "p" value for inclusion of 0.43.

Another linear modeling analysis was performed using the change in the parent form of the Child Behavior Checklist between the first and second administrations as the dependent variable (Table 8). In this analysis testifying in juvenile court was associated with a reduction in behavior problems (p=0.001) while "pending" was a significant negative influence on the child (p=0.011). The magnitude of the standardized coefficients and t test scores suggest that the protective influence of testifying in juvenile court may nullify the impact of the waiting process for criminal court. The sample size is too small to allow expansion of the model to include interaction terms and other variables.

Table 7: Linear Regression Models For Change in CAS total Score Related to Placement Out of the Home, Juvenile Court Testimony, and Awaiting Criminal Prosecution of the Perpetrator

Model A: With the original CAS score as a covariate

Dependent Variable: Change in CAS score

N=48 Adjusted R^2 = .343 p <.0001

variable	Std. Coef.	t	p
Constant	0.000	1.02	.315
Initial CAS Score	-0.504	-3.63	.001
Testify (Juvenile)	-0.142	-1.10	.279
Waiting (Criminal Court)	0.136	1.04	.304
Placement	-0.065	-0.51	.610
Age	-0.068	-0.56	.577

Model B: Without initial CAS total score as a covariate

Dependent Variable: Change in CAS total Score

N=48 Adjusted R^2 = .151 p=.025

variable	Std. Coef.	t	p
Constant	0.000	.60	.552
Waiting (Crim Court)	-0.318	-2.35	.023
Testify (Juvenile)	-0.259	-1.83	.074
Placement	-0.165	-1.18	.245
Age	-0.135	-1.00	.321

Table 8: Linear Regression Assessing the Impact of Placement, Waiting for Criminal Court Proceedings, and Juvenile Court Testimony on the Change in Behavior Problem Assessment on the Child Behavior Checklist (Parent Form)

Dependent Variable: (time 2 CBC-P Behavior - time 1 CBC-P Behavior)

N=30 Adjusted R^2 = .555 p< 0.0001

Variable	Std. Coef.	t	p<	
Constant	0.000	3.67	.001	
T1 Behavior	-0.578	-4.38	.001	
Awaiting Crim Court	0.356	2.73	.011	*
Out of Home	-0.007	-0.05	.960	
Testify (Juvenile Court)	-0.395	-3.01	.006	*

DISCUSSION:

The analysis of these data is still in an early phase. The project staff decided to collect data up until the end of the funding period and use university computer support to complete the analysis of the data. The data analysis phase is expected to continue for another 3 months. This project has produced the most comprehensive data set to date on the psychological status of the child sexual abuse victim at the time of the initial social service investigation and on the impact of the intervention process on the children. At the time of this writing all 84 subjects who were seen for initial intake have had the opportunity to be reinterviewed for followup. These new data have not yet been entered into the analysis file and are thus not yet available for this report. As indicated earlier in this report, support has been given by the National Institute of Justice for another followup examination of all children 18 months after the initial evaluation. At the time of this writing nine of the 18 month evaluations have been completed.

The data already produced are instructive with respect to the disposition of children and families involved in social service investigations. In more than half of the investigations, the initial indication by the investigating social worker is that the perpetrator will be prosecuted. Approximately 1/2 of the sample were removed from the home and placed in foster or relative care. Nine of the removed children had already returned home at the time of the five month followup. Approximately 75% of families were described as easy to work with although 35% of the families continued to deny the existence of sexual abuse at the time of the psychological examination. Subsequent analyses will be undertaken from this data set to attempt to describe the decision-making process of the agencies and courts.

The data are also instructive about the mental health impact of child sexual abuse on the child victim. Our children had scores on both the Child Assessment Schedule and the Child Behavior Checklist

that would indicate significant antisocial behavioral problems. Previous workers have suggested using a t-score standard of 70 as a point of demarcation for identifying children with a need for mental health consultation. Our subjects had a mean of 67.5. Hodges and her coworkers noted that the inpatient population of a children's psychiatric service had an average CAS score of 42. Our sample had a mean of 47.4. We have not had the opportunity to fully examine these data and develop psychiatric profiles for children with different kinds and amounts of trauma history.

The most encouraging aspect of these data was the overall improvement seen in the cohort between the first and second interviews. This indicates both that the instrument is sensitive enough to pick up changes and that some resolution of acute distress occurs even over the short run. The CAS noted a greater change than the CBC-P although the CBC-P was the instrument that appears to have been sensitive to changes in the child's environment.

The major hypotheses of the study are still largely untested. We found some evidence to suggest that the child is adversely affected by a decision to prosecute the perpetrator of child sexual abuse at least with respect to the waiting status that this appears to impose upon the children. This finding may be confounded by the level of initial distress noted among the children whose perpetrators are being prosecuted. The linear modeling of the CBC change suggests that these two issues are intercorrelated. The larger sample now being collected will have to be re-analyzed to clarify this apparent association. We are still uncertain about the impact of the relationship of the perpetrator to the victim as this has not yet been analyzed. If further analysis supports this association it may represent a delay in the resolution of the adverse effects of the sexual abuse because the court process requires frequent recall of the sexual abuse and the subsequent effects of discovery on the child's family. These data cannot answer the question as to whether the apparent adverse effect of the criminal prosecution will persist over time. The adverse effects may resolve quickly after the court process is completed or persist for some time. We hope to shed some more light on this question with the 18 month followup exams.

We had hypothesized that child testimony in criminal court would result in greater harm to the mental health status of the child. We have not been able to address this issue because to date only two children have had this experience. However, the data collected to this point suggest that having an opportunity to testify in juvenile court may actually be beneficial. This factor appeared to be important with simple cross tabulation of the data and emerged again in the linear modeling of the Child Behavior Checklist data. Using the Finkelhor & Browne(9) conceptualization, one possible explanation for this finding is that the opportunity to testify in the juvenile court may represent specific intervention on the powerlessness dimension. Because criminal court is a quite different experience, we would not generalize this finding to criminal court testimony without further evidence.

Removal from the abusing home appeared to have a consistent but non-significant beneficial effect on the child victim on the simple analysis. Linear modeling of the CAS and CBC data failed to uncover any evidence of a significant relationship. Since out of home placements were split between foster and relative care, and a significant percentage of the out-of-home children had returned to their homes, this analysis variable may have little significance. Again, the size of the sample analyzed for this report is too small to allow us to explore each variation in placement without trampling on statistical validity. Analysis of the larger numbers possible when all of the children seen at intake are followed up will permit more careful delineation of the impact of foster care.

Further Analyses:

Much still remains to be done on the analysis of the dataset collected from this study. The findings recorded here will be restated in a log model which will allow an explicit comparative statement to be made about the relative influences of testimony and criminal prosecution on the CAS score. Our agenda includes clarifying the profiles of the child victims' psychological states, analyzing the impact of the relationship of the perpetrator to the victim on the psychological status, analyzing the impact of maternal social support on the victim's response to sexual abuse and the court process, examining the impact of acute placement in foster care, determining the influences on placement decisions by social workers and courts, and exploring whether our subjects are representative of all intrafamilial sexual abuse victims reported to the state Department of Human Resources in the study counties. We also have the data from the medical examinations of these children.

Conclusions:

Our estimates of the likelihood of improving one or more standard deviations on the Child Assessment Schedule subscales for anxiety and depression and the overall score suggest that juvenile court testimony has a beneficial effect on the child victim with its greatest impact being the reduction in anxiety. Awaiting the criminal court process appears to impede resolution of depression. Neither of these findings were anticipated in our research proposal. Only a small group of the children had progressed through the court system at the time of the five month followup. During the conduct of our study the mental health examiners were struck by the apparent adverse impact of the criminal court waiting process on some of the children. We did not expect this effect to emerge as a major factor related to recovery from the adverse effects of the sexual abuse. The linear modeling of the data obtained from the Child Behavior Checklist (parent form) appears to confirm these relationships. A more extensive exploration of the factors related to the impact of intervention into child sexual abuse will have to await the analysis of the entire dataset after all of the followup exams are completed.

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LEGISLATIVE PROPOSAL I

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SPEEDY TRIAL LAW TO REQUIRE A JUDGE TO CONSIDER ADDITIONAL FACTORS WHEN GRANTING A CONTINUANCE.

The General Assembly of North Carolina enacts:

Section 1. G. S. 15A-701 (b)(7) is amended by adding a new subsection d., after subsection c., as follows:

"d. Whether the case involves a witness who is under 13 years of age and who is alleged to be the victim of child abuse, and whether further delay would be injurious to such witness."

and is further amended by adding the word "and" at the end of subsection b. after the semicolon.

Sec. 2. This act is effective upon ratification.

LEGISLATIVE PROPOSAL II

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE PURCHASE OF ANATOMICALLY CORRECT DOLLS

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the North Carolina Administrative Office of the Courts the sum of twenty thousand dollars ($20,000) for fiscal year 1987-88 for the purchase of sets of anatomically correct dolls to be distributed to each prosecutorial district in the State.

Sec. 2. This act shall become effective July 1, 1987.

LEGISLATIVE PROPOSAL III

A JOINT RESOLUTION CONTINUING THE LEGISLATIVE RESEARCH COMMISSION CHILD ABUSE TESTIMONY AND CHILD PROTECTION STUDY.

Whereas, the Legislative Research Commission Child Abuse Testimony and Child Protection Study Committee made recommendations to amend the Speedy Trial Law to limit continuances in child abuse cases, to propose that child abuse cases be given priority on the trial schedule, to coordinate the interview process for child victim, and to develop a program to address the needs of the child abuse victim through the treatment and rehabilitation phase; and,

Whereas, the Study Committee on Child Abuse Testimony and Child Protection needs to continue its study of videotaped recordings and video transmission via closed circuit television of the testimony of the child victim or witness in order to interpret evolving federal and state case law in this area to ensure that the procedure would survive a constitutional challenge;

Now, therefore, the Senate resolves, the House of Representatives concurring:

Section 1. The Legislative Research Commission may continue its study of child abuse testimony and related child protection issues. The committee making the study may make an interim report, including recommendations, to the 1987 General Assembly, 1988 Session, and may make a final report to the 1989 General Assembly.

Sec. 2. This resolution is effective upon ratification.